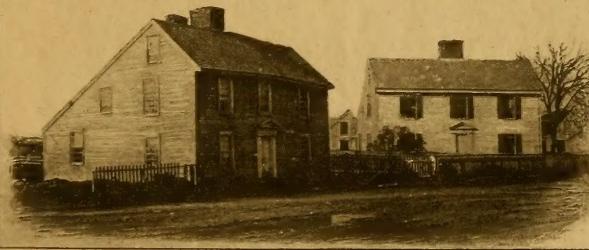


7-6

John Adams
Library.



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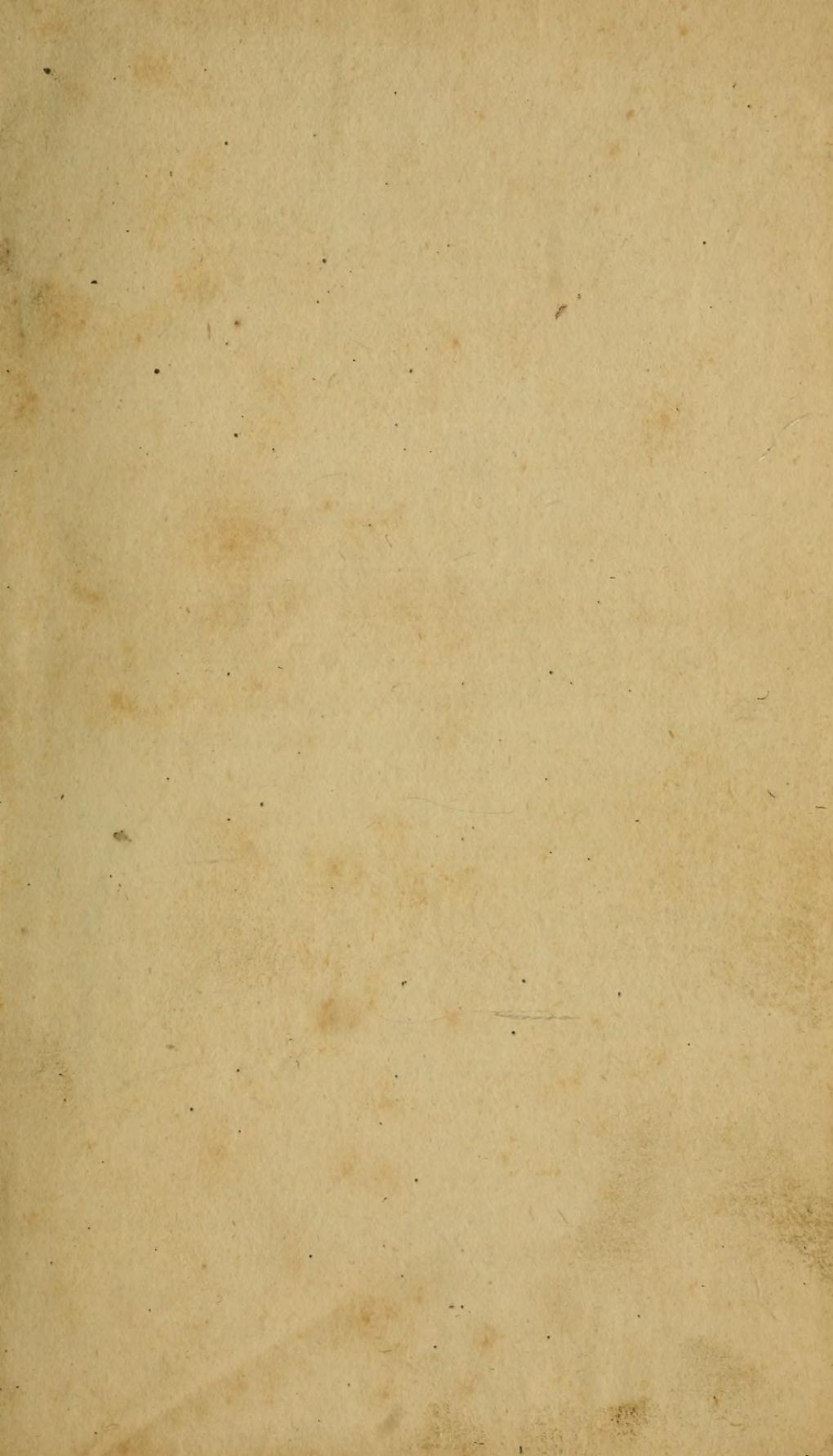


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Trinity Term 1727. King's Bench.

TO establish the Practice of this Court upon the late A&T of Parliament for preventing frivolous and vexatious Arrests, It is Ordered, that from and after the last Day of this present Term, in all Causes where a Copy of the Process of this Court is served upon any Defendant or Defendants, and an Appearance is entered, or common Bail filed for such Defendant or Defendants, by the Plaintiff's Attorney, pursuant to the said Act ; the Plaintiff's Attorney in such Case shall leave a Copy of the Declaration in the Office with the proper Officer appointed for that Purpose, and likewise give Notice thereof to the Defendant or Defendants by delivering an English Notice written in Secretary Hand to such Defendant or Defendants, or by leaving the same at the last or most usual Place of Abode of such Defendant or Defendants, in which Notice shall be likewise express'd the Nature of the Action, and at whose Suit prosecuted, and the Time limited by the Rules of this Court for such Defendant or Defendants to plead to such Action, and that in case such Defendant or Defendants do not plead to such Declaration by such limited Time, so to be express'd in such Notice, Judgment will be enter'd against such Defendant or Defendants by Default, and from the Time of giving such Notice as aforesaid, such Declaration shall be deemed well delivered to such Defendant or Defendants, and not otherwise.

And in Case such Defendant or Defendants (after such Notice given) do not plead by the Time the Rules for Pleading are out, the Plaintiff in such Case may sign his Judgments without any other or further calling for a Plea, And thereon give Notice of executing his Writ of Enquiry, either by delivering a Notice in Writing to such Defendant or Defendants, or by leaving the same at the last or most usual Place of Abode of such Defendant or Defendants ; which shall be a sufficient Notice to such Defendant or Defendants of the Time of executing such Writ of Enquiry.

John Adams

Instructor Clericalis.

Directing CLERKS, IN THE Present PRACTICE of the COURTS OF King's Bench AND Common Pleas.

Viz. In the

Abbreviation and Contraction of Words, (and thereby the speedy Reading of Precedents) in the Filling up and Suing out Writs of First Process; In drawing Declarations, Pleas and Demurrers; Making up Issues and Paper-Books; Ingrossing Records; Entring Judgments; Suing out Writs of Execution, Writs of Error, Originals, Outlawries, &c. And also the Method of Passing Fines, &c.

WITH

An Addition of Special Notes and Observations in the Court of COMMON PLEAS, Alphabetically digested.

The **Seventh Edition**, wherein the Errors of the Former Impressions are carefully corrected and amended: And to Which is now added, Several Modern Precedents of Declarations, Issues and Writs; together with the Statutes, and Modern Resolutions of the Judges, relating to the Practice, and the Rules and Orders of Both Courts to this present Time.

In the SAVOR:

Printed by E. and R. NUTT, and R. GOSLING,
(Affigns of Edw. Sayer, Esq;) for Joel Stephens, at
the Hand and Star between the Temple Gates in Fleetstreet.
M DCCXXVII.

^xADAMS 253.14

TO THE
READER.

SIR,

THIS Treatise you will perceive was chiefly collected and published for the Instruction of Young Clerks, in the Business of their First Years, and hath met with such a General Approbation of the Attorneys and Practisers, That Six Impressions thereof have been already bought up; and another being now wanting, I have to this Seventh Edition, by the Assistance of Several of the most Eminent Practisers of Both Courts, made Considerable Amendments and Additions, which render the Whole agreeable to the present Practice of each Court.

In this Edition, those Errors, which had escaped in the former Impressions, are carefully corrected: Several Mo-

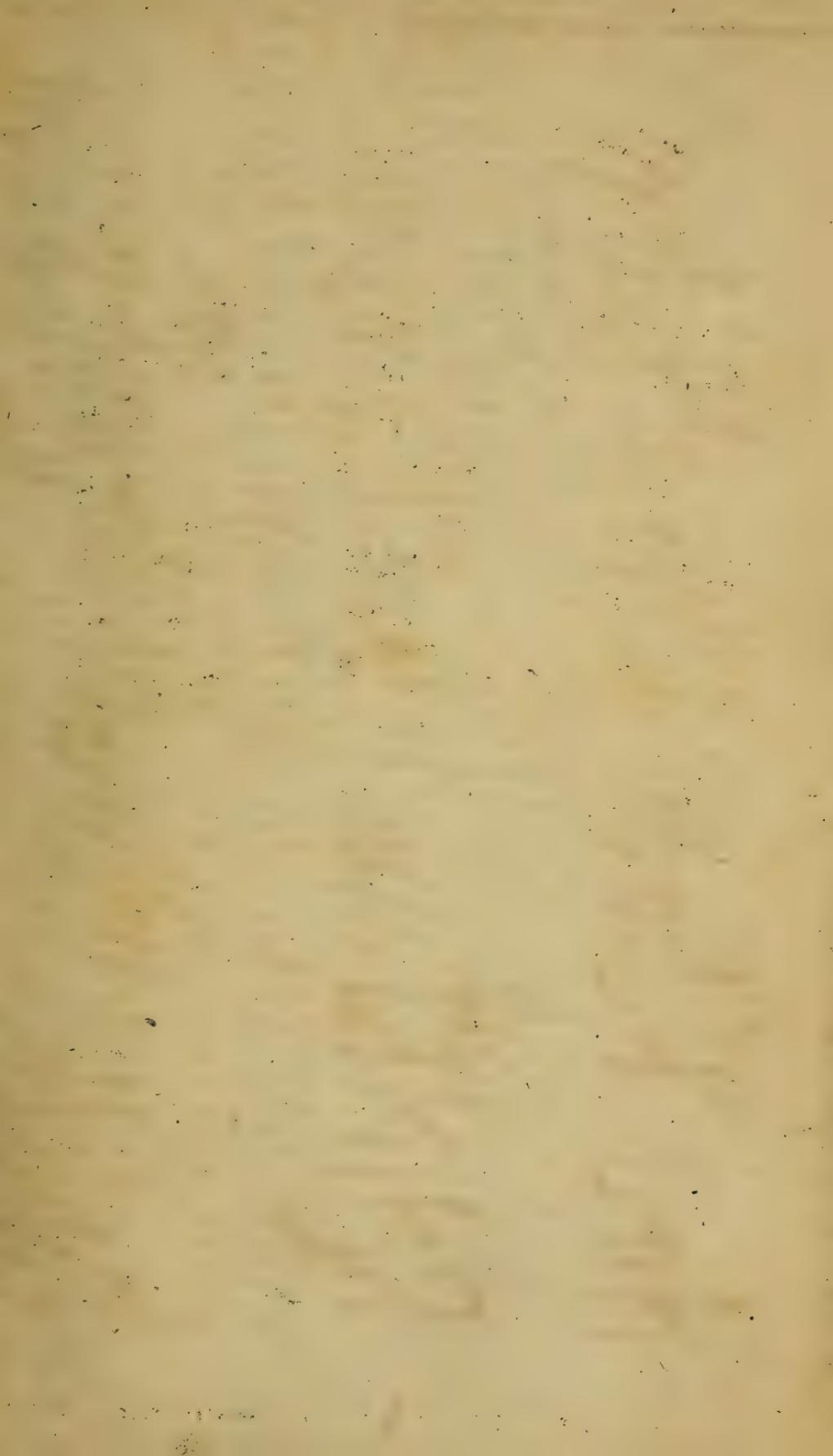
To the R E A D E R.

dern Precedents of Declarations, Issues and Writs are added: The Acts of Parliament which relate to the Practice; The Rules and Orders, and several Modern Resolutions of Both Courts are inserted, under their proper Heads. I have also added the Method of Proceeding by Original in B. R. and the several Ways of passing Fines, conformable to the present Rules. All which being intended for the Publick Benefit, are submissively recommended to Your favourable Acceptance by

Your Servant,

R. G.

INSTRUC-



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Principles and practice of pre-emptive planning

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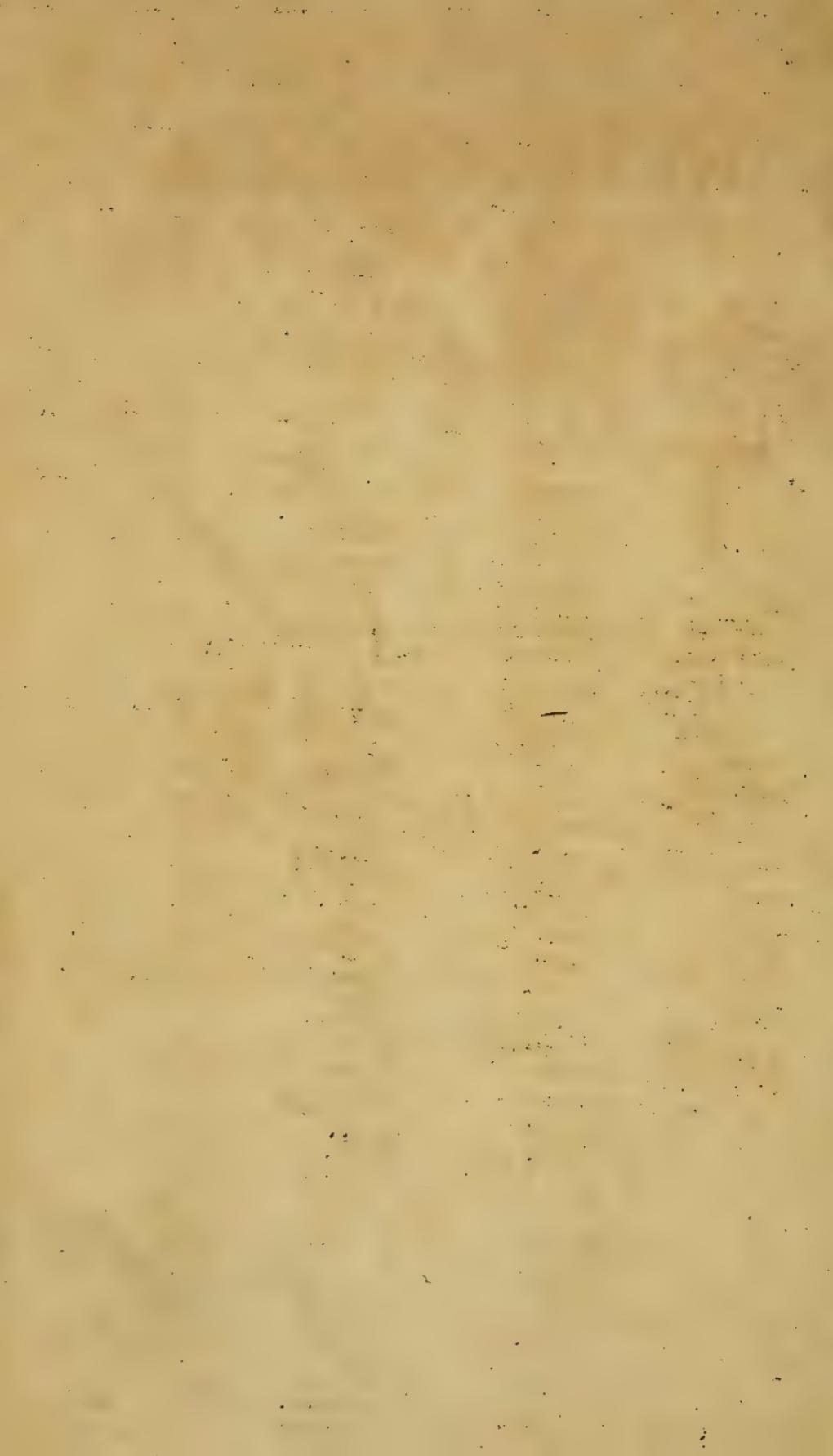
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INSTRUCTIONS FOR Young Clerks.

THE first Thing requisite for a Young Clerk is to learn to write well; especially to understand the true Breaks and Proportions of Secretary and Court-Hands; by the Knowing whereof, he will easily fall into the Cursory or Running Hands.

He may in the next Place use himself to read Writs, Declarations and Pleadings in Court-Hand, and endeavour to know the Abbreviations of Syllables, and Contractions of Words; for he will meet with very many of these in Writs and Pleadings, and not being used to them, will be hard put to it to know what to call them, and that perhaps when he shall be obliged to read them openly.

It is accounted very commendable to abbreviate and contract Words, and to dash and turn them up Clerk-like: Therefore that the Young Clerk may know the Method thereof, I have hereafter put down most of those Words he will meet with, either abbreviated or contracted; both for his Imitation, and Instruction readily to read them.

B

And

Of Abbreviations.

And first observe that these Syllables following are usually abbreviated.

b ber, **b⁹** bus, **c** cer, **d** di do dum,
g gra, **m** mer, **n** ner, **p** per, **p̄** pra,
p̄ pre, **p̄** pro, **q̄** quid quem, **qm̄** quam,
q̄ que, **qd̄** quod, **r̄** rus, **r̄** rum, **t̄** ter,
t̄ tra, **t̄** tur, **v̄** ver, **s̄** us, **w̄** um,
co sio tio, Ec.

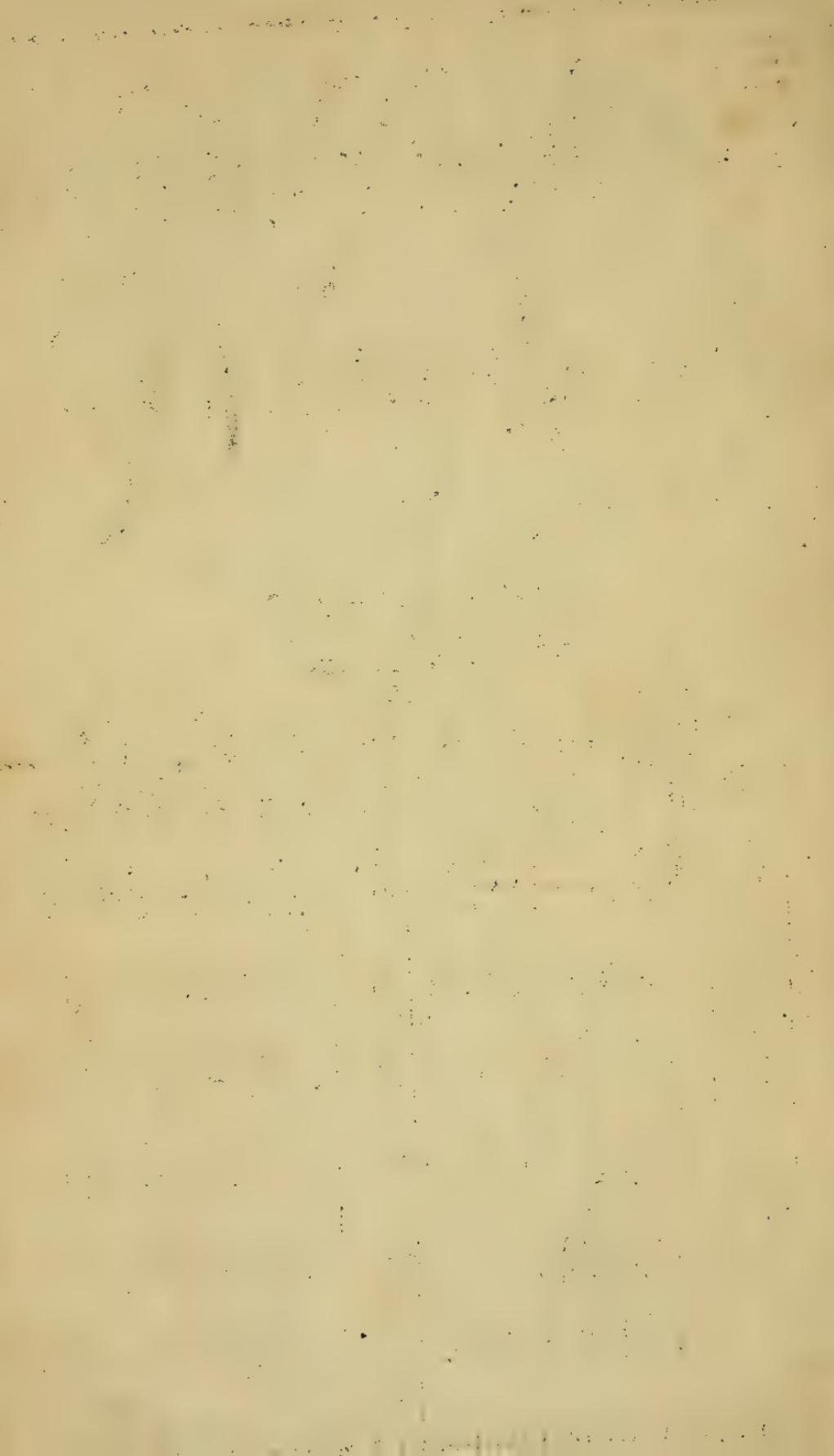
These Syllables are usually abbreviated at the Beginning and Middle of Words.

b ber, **L**ibtas, **L**ibertas, **G**ilbtus,
Gilbertus.
c cer, **C**etus, certus.
g gra, **gtis**, gratis, **gtitudo**, grati-
 tudo.
m̄ mer, **m̄ecator**, mercator, **am̄ciament**,
 amerciamentum.
n̄ ner, **vuln**abit, vulneravit.
p̄ per, **pensit**, pereussit.
p̄ pre, **pmissa**, premissa.
p̄ pro, **ptulit**, protulit, **ap̄pbavit**, ap-
 probavit.
t̄ ter, **t̄ra**, terra, mittet, mitteret,
 brebit, breviter.
co tio **E**lio, **pclama**conem, narraco,
 narracionem.
t̄ tra, **fnsgrē**, transgressio, ext, extra.
v̄ ver, **V**lus, versus.

These

þþzðm̄g w̄ m̄n̄y p̄ p̄ p̄ ḡn̄
ḡn̄ ḡz ḡn̄ z þ þ f̄ f̄ n̄ ð a

1152



*These Syllables are usually abbreviated
at the End of Words.*

b^o bus, (The Dative or Ablative Case)
quib^o, quib^cunq^o.

dⁱ di do dum, (Gerunds) as habendi,
habendum, tenendi, tenendum,
infloquendi, infloquendi, in-
nuendi, innuendo.

p per, nup, nuper, semp, semper.

p p^a, sup, sup^a.

q'm quam, (the Conjunction,) q'mbis.
qz que, quicunq^o.

qd quem.

qd quod, (the Conjunction,) qdlibet.

q rum, after a, e, o, quaq, quarum,
req, rerum, quoq, quorum.

t rus, (Participles) as futur^r, futurus,
serbitur, duratur, per omnes
Casus.

co sio & tio, hico, versio orato, oratio,
t ter, brevie, breviter.

t tur, querit.

id um, messuagid.

s us, Gulielms.

& et, &c.

*Note, There are no Diphthongs used in
Law-Pleadings, the Letter e being
always used for æ.*

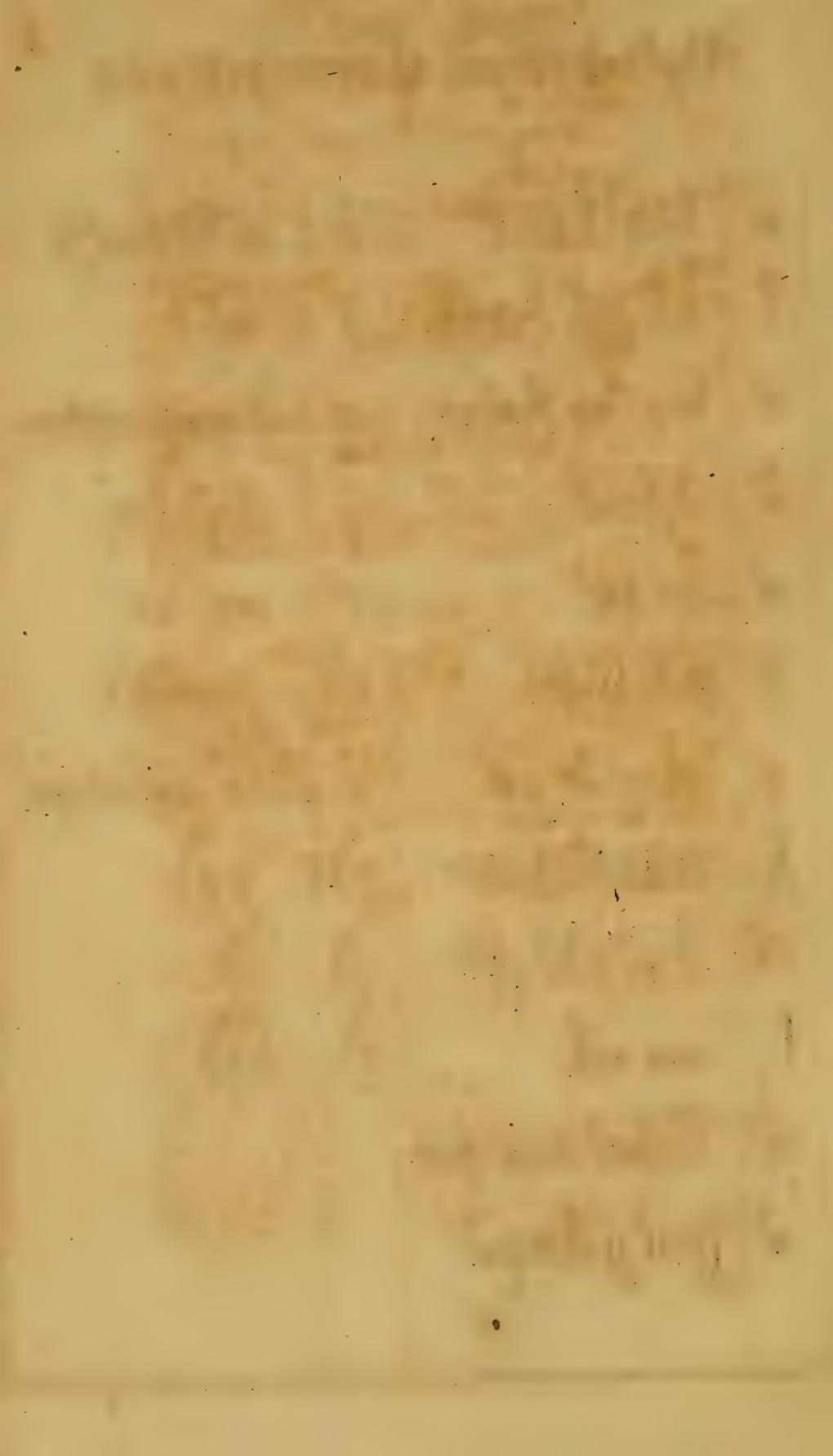
Alphabetical Contractions at

- (a) as una vacca, unam vaccam, grā, gratia, &c.
- (b) as nob, vob, octab, nobis, vobis, octabis, &c.
- (c) as die, Die, Justie, fac, Franc, dicit, Vicecomes, Justiciarius, facias, Francia.
- (d) as defend for defendit, pō for predictus, per omnes Casus.
- (e) as ve fa, venire facias, bre breve.
- (f.) as def. for defendens, Suff. for Suffolcia, &c.
- (g) as pleg de p̄sequendū Plegii &c. atting for attingunt, custag, &c.
- (h) as attach for attachiatus.
- (i) as Ep̄ for Episcopi, P̄d Pr̄d, Rist Prius.
- (l) as Cul, bil, il, Ange, fidel, Capital, Culpabilis, villa, illa, Anglia, fidelis, Capitalis, &c.
- (m) as Westm for Westmonasterium, sum fuit for summonitus fuit.
- (n) as ven p Accord, for venit per Attoratum, Mag Brittan, &c.
- (o) as pō lō suo, ponit loco suo, Id, ideo.
- (p) as sup for supra.
- (q) as cumq for cumque.
- (r) as pp̄t for propria, Cur, Injur, futur, &c.
- (s) as cons consideratio, pmiss for premissa, miss, missis, vis, visis.

Alphabetical Contractions

as	unus uocatus
et	neb' eis' factis'
o	ut die' iustis'
d	defend'
e	le' fes'
f	ef' offi'
g	plex' do' p'or'
h	abbatis' suis'
i	ep' os' ip' os'
k	non' v'is'
m	most' am' suis'
w	ven' y' abb' oris'

o	ps' lo' oio' g'is'
u	ai' w'
z	t'ing' obidam'
v	pp' t'ip'
u	mo' v'is'
b	po'nis'ib' l'
w	num' mesu'agru'
y	pp' y'
v	y'
z	v'z'



Contractions.

5

- (t) as *requisit*, for *requisitus*, profer for *prefatus*, &c.
- (v) as *un*m*essuag*m**, *aur*m**, *argent*m**, *denari*m**.
- (x') as *px'* for *proximns*, *per omnes casus*.
- (p') as *P'* for *Peoman*, but rather *Peom*.
- (z') as *viz'*, *videlicet*, *mchandiz'* for *merchandize*, &c.

A Word that is written short, or abbreviated without a Dash, is not good; because the Dash or Turning up of a Stroke, is the general Mark to distinguish an abbreviated Word from a Word at Length.

Styl. Praet.

Reg. 351.

Neither ought the Dash or Turning up to be misplaced, as *heret* and not *heret*, for *haberet*, *huit* and not *h*u*it* nor *huit* for *habuit*, *ten*t*um* and not *sen*t*um* for *tenementum*, *tris* and not *tris* for *terr*t*is*; for where the last Sylable is at Length, the Dash or Turning up ought not to be made at the End of it.

6
¶ Of Abbreviations,

Christian Names abbreviated and contracted.

A B̄us for Abrahamus, so Ab̄i,
A b̄o, Ab̄um.

Alex̄ for Alexander, so Alex̄ri, Alex̄'es, Alex̄'rum.

And̄ for Andreas, per omnes Casus.

Ant̄us for Antonius, so Anthi, Antho, Anthum.

Bap̄ta for Baptisia, Bap̄te for Baptista, &c.

Barthūs for Bartholomeus, so Barthi, Bartho, Barthum.

Benjamīn for Benjamīnus, per omnes Casus.

Benedēus for Benedictus, Benedēi, Benedēo, Benedēum, &c.

Christophorus for Christophorus, so Christozi, Christoro.

David p omnes Casus, and so of other Hebrew Names.

Eduis for Edmundus, so Edi, Eoo, Edum.

Edyus for Edwardus, so Edyi, Edyo, Edyum.

Ephraim in omnibus.

Elizabeth for Elizabetha in omnibus.

Frañcus for Franciscus, Frañci, Frañ-

co, Frañcum.

Galfus for Galfridus, Galfri, Gal-

fro, Galfrum.

Gil-

Of Abbreviations.

Gilbtus so **Gilbt**. &c. ver being contracted in the Middle in most Words.

Godfrus for **Godfridus**, so **Godfr**, **Godfrd**, **Godfrum**.

Humphrzus or **Humfreus** for **Humfridus**, so **Humfr**, **Humfrd**, **Humfrum**.

Johes for **Johannes**, so **Johis**, **Johi**, **Johem**.

Michis for **Michaelis**, so **Michi**, **Miche**.

Nichus for **Nicholaus**, **Nichi**, **Nicho**, **Nichum**.

Phus for **Philippus**, **Phi**, **Pho**, **Phum**.

Ricuz for **Ricardus**, **Rici**, **Rico**, **Ricm**.

Robtus for **Robertus**, **Robt**, **Robto**, **Robtum**.

Stephus for **Stephanus**, **Stephi**, **Ste**, **pho**, **Stephum**.

Walterus for **Walterus**.

Willus for **Gulielmus** or **Willielmus**, **Willi**, **Willo**, **Willum**.

Wilfus for **Wilfridus**, **Wilfdi**, **Wil**, **pho**, **Wilfum**, &c.

Note, All Sir-names and Names of Places must be wrote at Length.

Common Words contracted or abbreviated.

A **Bbtia** for **Abbatia**, so **Abbtie**, **Abbtiam**, &c.

Ad for **ad sectam**.

Abbreviations and Contractions.

Aiaꝝ for Animaꝝ.

Als for Alias.

Archus for Archangelus, Archi, Archo, Archum.

Archiepus for Archiepiscopus, Archipi, Archipo, &c.

Appoꝝ for appositus, p omnes Casus, id est, for any Case in that Word.

Ar for Armiger, p omnes Casus.

Asselꝝ for assassinatus, p omnes Casus.

Aſſign for aſſignatus, p omnes Casus.

Aſſia, aſſila, aſſias, aſſisas.

Aſſid, aſſidunt, &c. Or for such case

Attoꝝ, attoꝝnatus, &c. or Person as the

Atting, attingunt, &c. Sense and Latin require.

Ballia, balliva, ballius, ballibus, ballium, ballivum.

Bar, Baronettus, p omnes.

Bili, billa, &c. p omnes.

Bon, bonus, &c. p omnes Casus,

b̄tus, beatus, b̄ti, b̄te, b̄to, b̄tum.

B̄de, b̄eve, b̄dis, b̄evis, b̄di, b̄dia, b̄dium, b̄dib̄, &c.

Clicus, Clericus, Clici, Cleo, Clicū, Clicꝝ.

Clin, clausum, cli, clo, clis.

Cōis, communis, cōi, cōem, cōes, cōib̄.

Comp'tum, computum, comp'i, comp'a, comp'is.

Cons, consideratum.

Crem, crastinum, crei, creo.

Cur, Curia, p omnes Casus.

Dñus, Dominus, Dñi, Dño, Dñm, Dñoꝝ.

D̄tus,

Abbreviations and Contractions.

9

D^rcus, dictus, d^rti, d^rte, d^rto, d^rtum,
d^rta, d^rto^r, Ec. d^ris.

D^ebrium, debitum, debi, debo, debor,
debis.

D^ef. defendens,

D^ef^cus, defectus, defit^d.

Dⁱl^cus dilectus, dilei, disco, dileid.

Dⁱnico, Dominico, Dⁱniciū, Dⁱnica, Ec.
in Dⁱnico suo ut de feodo.

Ecclesia, Ecclesia, Eccleie, Eccliam, Ec.

Eff^cus, effectus, effit^d, esegum, Ec.

Eid^s, eidem.

Ex'a*itate*, examinatur.

Extr^pot^s, extrapolitus, p omnes Casus,

Ex'ee for Executoz & Executio, which
is doubtful.

F^cus, factus, fci, fco, fcd, factum,
fca, fcp, fcs.

Flus, fatus, fli, flo, flum, flor, flis.

Feod feodum, p omnes Casus.

Fris, fratris, frem, frē, frēs, frīum,
fribus.

Gavis, gavisus, p omnes Casus.

Gen, generosus, p omnes Casus.

General, generalis, p omnes Casus,
grat^s, gratis.

Grā, gratia, ḡbe for grave.

H'eas, habeas, het, habet, hens, ha-
bens, hent, habent, hend, habendum.

Here, habere, huit, habuit.

H'oies, homines, hois, hominis.

Hūmoi, hujusmodi.

Iō, ideo, ibm, ibidem.

Ip'e, ipse, ip'd, ipsum, ip'os, ip'is.

Incerū, incrementum.

Ingr^sus, ingressus.

Im^s

Abbreviations and Contractions.

Ampetū, imperpetuum.

Instante, instantia, p omnes Casus.

Jur, Jurator, p omnes Casus.

Justitie, Justiciarius.

Lat, latitat, &c.

Le glis, legalis, legle, legale, leglia,
leglum, leglib⁹.

Libe, libere, libertas, libertas.

Licet, liceret.

Lettine, legitime.

Litera, litera, lre, lra, lras, lis.

Mida, miserecordia, & pd def. in mia,
&c.

Min, minime.

Millimo, millesimo, &c.

Mag^r, magister.

Mar, Maresc, Mareschallus, Ma-
reschalsie, custos Mar, Maresc, &c.

Middx, Middlesex, Vice Middx sal-
tem, Vicecomiti, &c.

Mis, miss, mis & custag suis, &c.

Narr, narratio, p omnes Casus.

Natalis, natalis, natle, &c.

Nob, nobis.

Ne, noster, nri, nostri, nrū, nostrum,
nro, nroq, nris.

Noen, nomen, nois, nominis, noie,
nomine.

Noiate, nominatur.

Nup, nuper.

Nunquam.

Oes or omes, omnes, ois, omnis, om̄i,
omni, oēm, omnem, oia, oium, oib⁹.

Ono or om̄io, omnino.

Om̄iod, omnimodum.

Omitt, omittas, &c.

Abbreviations and Contractions.

xx

p̄pum, perpetuum.

pti, pertinentiis, pertinentia, &c.

P'ris, Patris, P'tri, P'trem.

P'ria for Patria, P'riam.

p̄d, predictus, p omnes Casus.

p̄ct, pteritus, p omnes Casus.

p̄litum, placitum, p̄liti, plito, p̄lita,
plitor, plitis.

pr', proximus, p omnes Casus.

post, postea, pe, post.

p̄p̄, proprius, &c. p omnes Casus.

p̄pe, propter.

Pleg de ps, Plegii de prosequendo.

Pō lō suo, ponit loco suo, as in a War-
rant of Attorney.

Parl, Parliamentum, &c. p omnes
Casus.

Q'm, quam, the Conjunction properly.

Quer, querens, p omnes Casus.

Querel, querela, p omnes Casus.

Qd for quod the Conjunction properly,
but it is used indifferently.

Quib'cunq, quibusunque.

Ad recognit, ad recognoscendum, & qui

nec, &c. ad recognit, &c. quia tam, &c.

Nesp̄cus, respectus, resp̄ctm, respectū, &c.

Nespons, responsum.

Nēozia, Nēctoria, Nēozie, Nēoziam, &c.

Anī, Regni, Anno Anī nři nunc, &c.

Nēne ratione, Nōtio for Notulo.

Nōnabilis, rationabilis, rōnabilem, &c.

Sabti, Sabbathi,

Sacrum, Sacramentum, Sacri, Sa-
cro, Sacra, &c.

Saltm, salutem, vīe Middx saltm,
ut antea.

S̄cus, Sanctus, S̄ci, Sancti, S̄co, S̄ca,
S̄cov, S̄cis. S̄cūg,

Abbreviations and Contractions.

Secundus, secundus, sedi, sedo, sedū, Ec.
Scēum, Scaccarium, Scēi, Scēio,
 Ec. Anglie, the Exchequer-Court, Ec.
Scot, Scotia.

Sile, simile, sīlis, sīli, sīlie, similiter,
 sīlia, sīlib².

Scil or ss. scilicet.

Spec or speificat' for specificatus, Ec.

Sum, summonitus, sum fuit ad re-
 spondend, Ec.

Sup'dtus; supradictus, Ec.

Supp'oit, suppositus, p omnes Casus.

Sp'ialis, specialis, sp'iale, Ec.

Sp'uialis, spiritualis, sp'ualem, Ec.

Tle, tale, tlis, talis, Ec.

Titlus, titulus, titli, titlo, titlum, Et.

Tentum, tenementum, tenti, tento,
 tenta, tentis.

T' for Teste in Writs, as T. Rōto Ray-
 mond Mīl, Ec.

T'minus, terminus, T'mini, T'mio,
 T'miū, T'minis.

Testm & Tes tum for Testamentum,
 Testi, Testo, Testa, Testis.

Tīggē, transgressio, p omnes Casus.

Trin, Trinitas, p omnes Casus.

Ven, venit, Ec.

Vic, Vicecomes, p omnes Casus.

Vid, vidua, p omnes Casus.

Visn or vicin for vicinitas, Ec.

Vide & videlit, videlicet.

Volunt, voluntas, Ec.

Ule, ultimus, p omnes Casus.

Ux', uxor, ux'is, uxor, ux'i, ux'e, Ec.

Westm, Westmonasterium.

xii^{cim} duodecim.

xv^a quindena, xv^{am} quindenam, Ec.

There

There are also Clerk-like Contractions of English Words, as Adm^rs Administrators, ag^t against, Ass^s Assigns BP Bishop, Com^{ers} Commissioners, Coven^{ts} Covenants, Dr Doctor, Esqr Esquire, Exec^rs Executors, Hon^ble Honourable, H^d Honoured, Ind^re Indenture, L^d Lord, L^dp^s Lordships, L^re Letter, M^d Memorandum, Mr Master, Mess^{es} Messuages, M^rs Mistress, Mat^y Majesty, ob^t obedient, pd paid, Possiⁿ Possession, Q^r Quarter, sd said, Sr Sir, Serv^t Servant, St Saint, Ten^{ts} Tenements, tow^{ds} towards, yn then, ye the, yt that, yr your, Wp^{ll} Worshipful, cum multis aliis.

Jan. January, Feb. February, Apr.
April, Aug. August, 7^{ber} September,
8^{ber} October, 9^{ber} November, 10^{ber}
December.

Thirty Days hath September,

April, June and November;

* February hath Twenty-eight * Except in
alone. Leap Year it hath 29.

All the rest have Thirty and one.

The Counties of *England* and *Wales*, are thus written, viz.

England.

- | | | |
|------------|------|-------------------|
| 1. Bedf. | { | Bed 21. Lincoln |
| 2. Berks | or { | Beik 22. Middx |
| 3. Bucks | { | Buck 23. Monmouth |
| 4. Cantab. | | 24. Norf |
| 5. Cest. | | 25. Northc |
| 6. Cornw. | | 26. Northumb. |
| 7. Cumb. | | 27. Notingh., or |
| 8. Derb | | Nott |
| 9. Devon | | 28. Oxon |
| 10. Dors | | 29. Rutl |
| 11. Dunelm | | 30. Salop |
| 12. Essex | | 31. Somis |
| 13. Ebor. | | 32. Staff. |
| 14. Glouc. | | 33. Suff. |
| 15. Heref. | | 34. Surre |
| 16. Herff. | | 35. Susser |
| 17. Hunc | | 36. Suthe, or |
| 18. Kanc | | Southe |
| 19. Lanc | | 37. Warv |
| 20. Leic | | 38. Westm |
| | | 39. Wigord, i. e. |
| | | Worcester |
| | | 40. Wilts' |

Wales.

- | | |
|---------------|-----------------|
| 1. Anglez | 7. Flinc |
| 2. Brecon | 8. Glamorgaw |
| 3. Cardigan | 9. Merioneth |
| 4. Carmarthew | 10. Mountgomrie |
| 5. Carnarbow | 11. Pembrok |
| 6. Denbigh | 12. Radnor |

Cities and Towns having a Sheriff or
Sheriffs.

Tivitas	Bristol Cobentē Cestr Eborā Glouc Lincoln, London Norwic Nott	habent duos Viceco- mites.
Villa —		

Tivitas	Cantuar Exon Lich Wigozū	habent u- nū Vice- comitem-
Villa de	Kingston sup Hull Southton Pool Novi Castri sup Tinam,	

Numb:

Numbers.

NO T E 'Tis reckoned more Clerk-like to write all Sums and Figures, till past Five at length, as **primo**, **secundo**, &c. but after Five in Numerical Figures, as VI. VII. VIII. MDCCXXVI. &c. But this is meant as to Copies, Precedents, Teste of Writs, and such Things as are not of Record, for there all Numbers and Sums ought to be in Words at length.

The Cursitors write XV. for **quindecim**, without (cim) over it ; and in the Testes of their Writs, **primo**, **secundo**, **terto**, **quarto**, **quintuo die**, afterwards VI. VII. VIII. die, without an (o) over, and not VI^o, &c.

I have rather set down these Things, because you may meet with them and many more thus abbreviated and contracted, especially in the Business of the *King's Bench*, which is not so nice and exact as that of the *Common Pleas*, who observe stricter Rules in their Writing, and generally write fairer, and with much less Abbreviations or Contractions than the *King's Bench*.

As for Example ; If Words have above Five Minums, or short Strokes, then to turn up the last Letter, as **un*id***, **me*su*a*gi*d**, **cotag*id***, &c.

So where Words have about five Minums, in the Middle, to use a Dash over instead of an *m*, as for *immunis* write *im̄munis*, for *commodum* write *cōmodum*, *exā̄inacō* *examinatio*.

To use a *V* Consonant before all Vowels, either in Secretary or Court-Hand, and for the readier distinguishing it from an *n*, as *v̄habit*, *vuldavit*, *pformavit*, *pimplevit*; and not *w̄baut*, *wuldwaut*, *pformauit*, *pimpleuit*.

To dash the Letters *b*, *h*, and *l*, where they are used for Abbreviation, through the Top thus, *h̄ ber*, as *Hobtus*, *h̄ here*, *l̄ videt*, *Angl*, &c. except the Nominative Cases of Hebrew Names ending in *l*, as *Abel*, *Daniel*, *Gabriel*, &c. and all Surnames.

Where Words are in both the singular and plural Number, to write the same at Length, as *Justiciarius* & *Justiciarii*, and not *Justic* for both; so *Assignatus* & *Assignati*, *Assigne*, *Assignees*, and not *Assigin* for both.

To write *existens*, *tenens*, and all Participles ending in *ens* at Length, for the Nominative Case, and not *existen'*, *tenen'*, &c.

To write all Towns and Surnames at Length, as *Milverton*, *Culpeper*, not *Milvton*, *Culpep*; and not to use *p* for *par*, as *pochia* for *parochia*, *ptes* for *partes*, and the like.

Also not to abbreviate the last Syllable of Words, whose Nominative Case ends in *sio* or *tio* at the *n*, for other of

Difference in Abbreviations.

its Cases, as narracōn for narrationis,
narrationt, narrationem, assumpcōn
for Assumptionis, &c. but to write the
last Syllable at Length, dashing over
the cō, narracōnis assumpcōnis.

The Clerks of the King's Bench and
Common Pleas differ also in their Forms,
as follows, viz.

King's Bench Forms.

Common Pleas Forms.

1. A Pud London
Videlicet in
Paroch hte Marie
de Arcub' in Ward
de Cheape London.

2. Anno Regni
Domini Georgii nunc
Regis Magi in Bri-
tan' Ec. decimo anno.

3. Unde petit Ju-
diciū si pū * Querē
accōnem suam pū
inde Hsū eū here
seu manutenere de-
beat, Ec.

4. Quoad Venire
Vi & Armis seu
quicquid quod est
contra pacem dicit
Dñs Regis nunc
dic' qđ ipē non est
inde Culpabilis.

5. Et de hoc pōd
se sup Pr̄iam, Et
pū * Querē alit,
Ec. Iō venī inde
jūrē cozam Dño Ge-
orge apud Westm die
mcurii xx' post
tres Septiānas sc̄d
Tridiū Et qui nec,
Ec. ad recognī, Ec.
quia tam, Ec. idem
dies dat est partib'
pū ibm, Ec.

1. A Pud Lond in the De-
claracion Paroch
hte Marie de Ar-
cubus in Warda
de Cheap.

2. Anno Regni
Domini Regis nunc
decimo anno.

3. Unde pet Ju-
diciū si pū * Querē Conclusion
accōnem suam pū dic- Bar.
tam versus eum
here debeat, Ec.

4. Quoad Venire
Vi & Armis die
qd ipē in nullo est
inde culpabilis pū
Querē suprius
versus eum queritur.

5. Et de hoc pōd
se sup Pr̄iam, Et
pōdix * Querē alit * Note, You
Iō p̄cept est Vic write the
quod Venire fac Plantiff's
hic a die sc̄d Trini- Name in-
tat' in tres septiā- stead of
nas XII cim, Ec. p
quos, Ec. Et qui
nec, Ec. ad recognī,
Ec. quia tam, Ec.

Difference in Forms.

King's Bench.

If the Plaintiff take Issue, then

Et hoc pet' qd inquiratur p P'riam & pd Def. sile, Ec. Id vnd inde Iur, Ec. as before.

Et heas ibi tunc hoc hre.

Cepit & abcarriabit.

Decimo tertio, decimo quarto, decimo quinto, decimo sexto, Ec.

Septendecim octodecim, novendecim.

Mesuagiu, Cottagi, Sigillae.

Et alia enormia ei ad tunc et ibidem, intulit contra pacem dicti Domini Regis nunc; Ad dampnum ipsius Quer decem Libram. Et inde produc Sectam, Ec.

At the End
of a Declara-
tion.

Common Pleas.

If the Plt take Issue then.

Et hoc pet' qd inquiratur p P'riam Et pd Def. sile' Id precept est Die, Ec. As before.

Et habeas ibi hoc hre.

Cepit & asportabit.

Tertio decimo, quarto decimo, quinto decimo, sexto decimo.

Decem & septem, decem & octo, decem & novem.

Mesuagiu, Cottagi, Signae.

Et alia enormia, Ec. ad gve dampnum, Ec. & contra pacem, Ec.

Vnde dicit quod deteriorat est & dampnum het ad Valene decem librae & inde pdue Sec tam, Ec.

Next

Next it will be proper to speak of the Four Terms, and their Returns for Writs.

Of the Four Terms.

THREE Weeks after Michaelmas-Day, i. e. Michaelmas-Term always begins the 20 October, is the Essoin-Day of Michaelmas Term, and the Fourth Day after inclusive is the First Day of the Term, except Sunday, which is always the 23 of October, if it be day, not Sunday; but if Sunday, then the 24th, and endeth the 28th of November, if not Sunday; and if Sunday, then the 29th.

Vide Stat. 16 Car. I. c. 6. for the Limitation and Abbreviation of this Term and the Returns thereof.

Hillary-Term beginneth the 23d Day of January, if not Sunday: But more exactly, that Day eight Weeks on which Michaelmas-Term ended: (It's Essoin-Day being Jan. 20.) and endeth the 12th Day of February, if not Sunday, being always the same Day of the Week that Michaelmas-Term beginneth.

By Reason you have often Occasion in Michaelmas-Term, to make Writs returnable in Hilary-Term before the Common Almanacks are published; it may be of Use to observe that this Term beginneth the same Day of the Week that Michaelmas-Term endeth, and endeth the same Day of the Week that Michaelmas-Term beginneth, and both Terms begin the same Day of their respective Months.

Easter-Term beginneth the Wednesday Fortnight or 17 Days after Easter-Day; it's Essoin-day being Sunday before, but held on Monday; and ends on Monday before Whitsunday.

Of the Four Terms.

Trinity-Term, *Trinity-Term* beginneth the Friday after Friday after *Trinity-Sunday*, being the same Day of that *Trinity-Sun-* Month on which *Easter-day* fell on in its *day*. Month; it's *Essoin-day* being *Monday* before, (for *Thursday* being *Corpus Christi*, it is pretermitted) and ends on *Wednesday* Fortnight after the Term beginneth. *Vide 32 H. 8. cap. 21.* This Term had seven Returns, but by this Statute abbreviated for fear of an Infection.

The issuable Terms are *Hillary* and *Trinity* only, so called because in them the Issues are joined and the Records made up, which are to be carried down, and tried at the Lent and Summer Assises, which immediately follow each of these Terms; And note, that the whole Term in Construction of Law is accounted (in many Cases) but one Day, and therefore a Judgment had, or a Plea put in the last Day of a Term, is a Judgment or Plea as of the first Day of the Term; but such Judgment shall not affect a Purchaser, but only from the Day such Judgment was signed.

Michaelmas-Term contains 5 Weeks and 2 Days, and hath 6 Returns.

In the Common Pleas, and upon all Writs returnable ubicunque.

1. A die *Sed Michis in tres Septembris.*
2. A die *Sed Michis in undes Mense term.*
3. In *Crasfino Animarum,*
4. In *Cro^o Sed Martini.*
5. In *Octab^o Sed Martini.*
6. A die *Sed Martini in quindecim dieg.*

Of the four Terms,
In the King's Bench, upon *Lacitatis alia pluri dñiring*, Et, say

- | | | |
|---|--|---|
| Die (Lune) pr' post tres sept' <i>Sed Michis.</i> | Die (Sab'ti) pr' post Mensem <i>Sed Michis.</i> | Die (Sab'ti) pr' post Crasfino Anima-
rum. |
| Die (Lune) pr' post Crasfino <i>Sed Martini.</i> | Die (Lune) pr' post Octab ^o <i>Sed Martini.</i> | Die (Lune) pr' post Quindecim <i>Sed Martini.</i> |
- Mentioning a Day certain.

Hillary-Term contains three compleat Weeks, and hath 4 Returns.

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Common Pleas.

In King's Bench, in all Writs not returnable ubi cuncte, say

1. In Octo^b S^c Hilarii.
 2. Et die S^c Hilarii in quindecim dies.
 3. In Crō Pas^e bte Marie.
 4. In Octo^b Pas^e bte Marie.
- { Die ... pr' post Octo^b S^c Hillarii.
Die ... pr' post Quindecim S^c Hillarii.
Die ... pr' post Crō Pas^e bte Marie Virginis.
Die ... pr' post Octo^b Pas^e bte Marie Virginis.

Easter-Term contains 3 Weeks and 6 Days, and hath 5 Returns.

1. Et die Pasche in quindecim dies.
 2. Et die Pas^e in tres Septimanias.
 3. Et die Pasche in und mensem.
 4. Et die Pasche in quinque Sept.
 5. In Crastino Ascensionis Domini.
- { Die ... pr' post Quindecim Pasche.
Die ... pr' post tres Sept Pasche.
Die ... pr' post mensem Pasche.
Die ... pr' post quinque Sept Pasch.
Die ... pr' post Crō Ascensione Domini. Mentioning a Day certain. Trinity

Trinity-Term wants one Day of three Weeks, and hath four Returns.

Common Pleas.

In King's Bench, in all Writs not returnable unicunque, say

1. In Trid scd Trinitatis.
2. In Octab scd Trinitatis.
3. In die scd Trid in quinderim dies.
4. In die scd Trid in tres Septuag.

- Die
Die
Die
Die
- Xr' post Trid scd Trinitatis.
Xr' post Octab scd Trinitatis.
Xr' post Quindecid scd Trinitatis.
Xr' post tres Septuag scd Trinitatis.

Mentioning a Day certain.

And so that the King's Bench Writs are most ly returnable on some certain Day of the Week next after some certain Return, as die June Xr' post tres Septuag scd Michis, and the like, except the Proceedings be by way of Original.

So that the *Common Pleas* Writs generally are returnable on no Day certainly expressed, but only to an *Initium* apud Westm a die *Secund Michis* in tres Septuag, &c. Except Writs not by Originals, as Attachments of Privilege, which must have a Day certain.

Of the Returns.

IN each Return throughout the respective Terms, are four Special Days, *viz.* 1. The **Eſſoin** Day, *i. e.* the Day in the Writ mentioned. 2. The **Exception** Day. 3. The **Retorna Brebium** Day. 4. The Day of Appearance, which is the 4° die post being the last of the Return, and the Day on which the Court sits.

The first **Eſſoin** Day regularly in Law, is accounted the first Day of the Term, and is the fourth Day inclusive before what is commonly called the Beginning of the Term, and on that Day one of the Judges formerly sat to take **Eſſoins**, &c. So that the fourth Day after, commonly called the Beginning of the Term, seems to be a Day of Grace, given by the Court for the Parties appearing.

The **Eſſoin** Day of every Term is said to be (*in*) in the Return, and every Day after is said to be (*post*), as die **Luſne** in Octab ſcē Trin^o, die **Martis** *pr'* post Octab ſcē Trin^o.

The Day that every Term begins, and the Day every Term ends, are the first and last Days of Appearance.

As every Term is said to begin on the 4° die post of the first Return thereof, so it always ends the 4° die post of the last Return; but if the 4° die fall on

a Sunday, then the Term begins or ends on the Monday after, except in Trin Term, the Essoin Day of the first Return whereof, is always Monday, and regularly the quarto die is the Thursday after, but that being corpus Christi Day, and dies non juridicus, it is held the Friday after: Though the Essoin Day fall on a Sunday, yet the 4^o die post is computed from that Day, as from any other, and is to be the Wednesday following; whereas had the Essoin Day been Monday, the quarto die would have been Thursday; and if the quarto die, returna brevium, or Exception Days fall on Sunday, the same are kept on Monday next following; and so is the Essoin Day when it falls on a Sunday; and in such Cases the Exception and Return Brevi Days are included in one, viz. Tuesday; all the Essoin Days in Easter Term fall on Sunday, except Crastin Assencionis; and so also do all of Trin Term, except Crast' Sec' Trin.

The Essoin-days falling on Sundays, and held on Mondays are Quind' Pas', Tres Pas', Mens' Pas', Quinq' Pas', Oct' Trin, Quindew Trin, Tres Trin.

And note further, That in the King's Bench, all Process both before and after Judgment, upon Latacit, Als, Plures, King's Bench. Bill of Middx, Distringas nup Vic, Habeas

Of Returns.

Habeas Corpus sup **Cepi Corpus**, & **Habeas Corpus ad fac**, & **See**, must be returnable at Days certain, and may be so made upon any Day in Term, which is (**dies Juridicus**) **pr' post** any of the aforementioned Returns.

Same Day
Term be-
gins, Writs in *B. R.* through all the Returns of every
to be return-such Term (except the last Return.)
able.

*Dies non Ju-
ridicus.*

And note, That the same Day of the Week that every Term begins, is a sure Day to make Writs returnable upon,

But all non Juridical Days must be avoided, as Sundays, All-Saints All-Souls, on the First and Second of Nov. in Michaelmas Term ; The Feast of the Purification the Second of February, in Hillary-Term ; Ascension-day in Easter-Term ; and Midsummer-day in Trinity Term. (if it so happens) are not dies Juridici in the King's Bench.

Note also, If you make your Writs in the King's Bench returnable upon the Essoin-day of any Return in the Term-time, as you may do ; you must also express the Day of the Week certainly, as die Iovis in mense sed Michis, die Iovis in Crô Animarum, &c. but this is seldom used but upon Trials, and Writs of Enquiry, in order to get some Advantages in that Term : If your Essoin-day happens on a Sunday, and therefore your Writ is returnable on the Monday after, you say die Lune pror' post mens' S. Michis, and not in mens' S. Michis. But the Form in the Common Pleas is a die S. Michis, &c. So

Of Returns.

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So that all Process by Bill in B. R. is returnable at a Day certain, naming the Day of the Week, viz. apud Westm die Lune in, (but generally die Iovis pr^o post) Crastino purificationis beate Marie, or the like. But if the Process is by Original, then 'tis *cozam nobis* (naming neither the Day of the Week nor the Place) in Crastino purificationis beate Marie *ubicunque* tunc fuerimus in Anglia.

Note, also, that the Writs of the King's Bench returnable *ubicunque*, as in Crō scđ Trīd *ubicunque*, &c. in Octāb scđ Trīd *ubicunque*, &c. and the like, are Writs grounded upon Originals out of Chancery, or upon Writs of Error out of the Common Pleas, and out of Inferior Courts, Process to the Outlawry, Retorū habendum, Capias in Withernam, Audita Querela, Accedas ad Curiam, and such like.

So generally in the Common Pleas all Original Writs in Actions are returnable in C. B. upon a Return, as in Crastino scđ Trīd, a die scđ Michis in tres Septimanias. &c. and so all Process and Proceedings thereupon.

But all Writs and Actions in C. B. not by Originals out of Chancery, and Proceeding thereupon, as Attachments of Privilege, Bills against Privileged Persons, Prohibitions, and the like, are returnable, and have Continuance to Days certain, as die Lune in mense Pasche, die

Jurisdiction and Authority
die Martis p^r post mensem Pas-
che; &c.

The Authority and Jurisdiction of the
Court of King's Bench.

THe Jurisdiction of this Court is general, and over all *England*, and hath Conusance of both Criminal and Civil Causes, being divided into a Crown-Side and a Plea-Side.

The Crown-Side determines all Criminal Matters, wherein the King is Plaintiff, as Treason, Felonies, Murders, Rapes, Robberies, Riots, Breaches of the Peace, and all Causes prosecuted by way of Indictment, Inquisition or Information, and into this Court, Indictment from all inferior Courts, and Orders of Sessions may be removed by *Certiorari*, &c.

The Plea-Side holds Pleas of all Personal Actions, prosecuted by Bill or Writ, as Actions of Debt, Detinue, Covenant, Accounts, and of all Actions of the Case, either upon Promises, Trover and Conversion, Words, Penal Statutes, and all other personal Actions, and likewise real and mixed Actions, as Ejectment, Replevin, Trespass *quare clausum fregit*, Waste, &c. and against any Person in the Custody of the Marshal of the Court, as every one Sued here is supposed to be; and in all personal Actions against any Officer, Minister or Clerk of the Court. This Court may examine and correct the Errors of B. C. and other inferior Judges

Judges and Justices; it can Reverse a Judgment given in the *King's Bench* in *Ireland*; it can repeal the King's Letters Patents, by *Scire Facias*; it granteth a *Habeas Corpus*, on Motion, to relieve Persons wrongfully imprisoned, restores Free-men unjustly disfranchised, and may bail any Person whatsoever where bailable by Law.

The Court of *King's Bench*, had originally no Jurisdiction in any Action of Debt or Covenant, unless one of the Parties had the Privilege of this Court, or the Defendant was in Custody of the Marshal, for some Trespass, or Criminal Matter, and in that Case they had Authority to hold Plea of any such Action, but they could not issue their Process against a Person who was at large, and hold him to Bail, in any Case of that Nature: To supply this Defect in the Reign of King *Charles II.* they introduced a Clause in the Bill of *Middlesex*, and Writ of *Latitat*, (which are their first Process) called an *Acetiam*, whereby the Defendant was to answer to a Bill to be exhibited against him in that Court, by the Plaintiff, in a Plea of Debt or Covenant, as the Case happened to be; and by this Method they held the Defendant to Bail, in an Action, in which otherwise they could have had no Authority to take Bail, and continue so to do at this Day.

The Judges and Officers of the Court
of King's Bench.

The Judges. **T**H E Judges are the Lord Chief Justice, and three other Judges.

The Officers of the Crown-Side, are

The Clerk of the Crown.

The Secondary of the Crown-Side.

The Clerk of the Rules there, and eight other inferiour Clerks who attend in the Crown-Office, and act as Attorneys, for the Dispatch of Business.

On the Plea-Side, are

The Prothonotary, or Chief Clerk of the Court, who is Master of the King's Bench Office, and hath his Secondary, who executes his Office, and his Clerks are the proper Attorneys here who subscribe all Writs, and enter up all Declarations, Pleas and other Proceedings in his Name, *viz. Ventris.*

The Master of the King's Bench Office. The Secondary, who is commonly called the Master, constantly attends the Sitting of the Court, to receive Matters referred to him by the Judges, to be by him examined and reported to the Court; he signs all Judgments, taxes Costs, and informs the Court in Point of Practice.

He hath also a Deputy, who keeps the Deputy Stamp for signing all *Latitatis, habeas Corpus, Certioraries, Scire facias Procedendo's, Elegit, Restitution', Habere facias Possessionem & Seisinam, Supersedeas, Prohibition*; he also keeps Remembrances thereof, so that you may know if any one of those Writs be made out, by Searching with him: Also all Writs returned, postea's, Writs of *Error*, Special Bail after they are accepted and Affidavits of the Plaintiffs Debt, for Issuing Process of Ten Pounds or upwards, are filed in this Office; he generally receives all Money ordered to be paid into Court.

The *Custos Brevium* is the Chief Officer belonging to this Court, whose Office is to receive and keep all the Writs, and to put them on the Files every Return by it self, and at the End of every Term, to receive of the Master all the Records of *Nisi prius*, called the Postea.

The Clerk of the *Nisi prius* examines and seals, all Records of *Nisi prius*, for Trials at the Assizes, and for *London* and *Middlesex*, and is Clerk of the Essoins and Warrants of Attorney, and Clerk of the Treasury where all the Records of this Court are filed; and from him you take Numbers for Rolls; all Copies of Judgments, and other Proceedings on Record.

Clerk of the Papers. The Clerks of the Papers receive all special Pleas, Demurrs and Pleadings signed by Counsel, and make up the Paper Books thereof, which the Plaintiff's Attorney always bespeaks; and they give a Rule on the Side of the Book for the Defendants Attorney, to bring it to him again, to be entered in four Days, or else Judgment to go by Default; and they constantly attend the Court, read all Affidavits, Records, and Proceedings there, and enter down in their Book, the Names of the Causes that are to be argued.

Clerk of the Declarations. The Clerk of the Declarations; with him are left all Copies of Declarations, where the Defendant's Attorney is not to be found, and he makes an Alphabetical Paper of such Declarations, that the Defendant's Attorney may search for, and have the same delivered to him; with him are also filed a Copy of all Declarations against Prisoners, and in many Cases, Declarations engrossed on Parchment.

Signer of Bills of Middlesex. The Signer of the Bills of *Middlesex* keeps a Book of Entry of the Names of the Plaintiffs and Defendants, in all such Writs, and files all Affidavits of the Plaintiffs Debt for Issuing such Bills of *Middlesex*, for Ten Pounds or upwards, where the Defendant is to be arrested.

Clerk of the Rules. The Clerk of the Rules takes Notice of all Rules and Orders made in Court, except those of the Crown-Side

Side, and afterwards draws them up, and enters them in a Book at large, for which he has eight Pence, and for the Copy of each Rule four Pence if in Term, and eight Pence out of Term; also he files all Affidavits used in Court, and makes Copies at four Pence per Sheet, and with him are given all Rules of Course, as to Answer and Reply, or Rejoin, and on Postea's, Writs of Enquiry, *Scire facias*, &c.

The Clerk of the Errors, allows all Writs of Error, and makes *Supersedeas* thereupon, into what County you please; he also makes Transcripts of Records, to be carried either into the Exchequer-Chamber, or *House of Lords*.

Note, There is a particular Clerk for the House of Lords.

The Clerk of the Common Bails, and Clerk of the Posteas, files the Bail-Pieces, and marks Bails. the Posteas, &c. and he or his Deputy attends in the King's Bench Office for that Purpose; and with him you file all Affidavits of the Service of the Process (for common Bail) on the Defendant, if he does not appear.

The Clerk of the Docquets enters all Judgments, Issues and Proceedings in this Court; he keeps Docquets of all such Judgments and Entries, and with him you may find if any Judgment be entered, or any Record filed, and the Number-Roll thereof; he keeps a Book

wherein you enter your Commitments, and Surrenders, and another Book for Entring your general Issues.

The Filaz-
ers.

Here are also *Filazers* in this Court, among whom the Counties are divided who make the Mean Process after the Original, in Suing to the Outlawry; and have the Benefit of all Process and Entries thereupon; the Person chiefly used is the *Filazer*, and *Exigentor* for *London* and *Middlesex*; Affidavits of the Debt are filed with him, he makes out all Special Writs on Originals, and with him you enter your Appearance, or give Bail to such Writs.

The Master
of the Seal-
Office.

The Master of the Seal-Office, who keeps the Great Seal for Sealing all Writs, issuing out of this Court.

The Marshal

The Marshal of the *King's Bench*, or his Deputy, ought always to attend the Court, to receive into his Custody, such Prisoners as shall be committed; and Note, every one sued in this Court, is supposed in the Declaration to be in his Custody; *but by the Stat. William and Mary*, the Plaintiff may declare against Prisoners in other Gaols.

The Cryer.

The Cryer makes Proclamation of summoning and adjourning the Court, calls Non-suits, and swears Jurymen, Witnesses, &c.

The Tipstaff.

There are Tipstaffs who attend each of the Judges in Court, and at their Chambers, and they take Persons into Custody by Rules of Court, or a Judge's Warrant.

The Po-

Of

Of the Laws of England.

IT is not amiss that our Young Clerk should be informed, at least in general, wherein consists the Law which he is to practice.

Towards which Purpose he may observe, That the Municipal Law of England consists of three Parts :

First, The *Common Law*, which is nothing else but the general Customs of the Common Kingdom, which were in Force before Law. the Coming in of *William the Conqueror*, and never were, nor yet are collected or reduced into Writing, at least by any publick Authority.

Secondly, *Particular Customs* of certain Places, which only in those Places obtain Customary. the Force of a Law : As the Customs of Law. *Kent*, where the Lands which they call *Gavelkind-Lands*, by that Custom descend to all the Heirs Males in equal Proportion ; and several other Customs in Force only in that County. The Customs of *London*, which are very numerous : The Customs of Manors, by which some Lands descend to the youngest Sons ; this Custom is called *Borough-English*. And these private or particular Customs differ from *Common Law* in this, That they only pass for Law in those Places where they have been received and allowed for Customs beyond the Memory of Man. Whereas

Of the Laws, &c.

the *Common Law* is the general Customs in Force all the Kingdom over, unless altered by Act of Parliament, and not restrained to one particular Place.

Statute Law. Thirdly, The *Statute Law*, or Acts of Parliament ; which are Bills passed by both Houses of Parliament, with the Royal Assent thereto (and is Superior to both the other Laws, either to explain, alter or annul the old, or enact new Laws.

And these are all comprehended in this Dystich.

*Jus commune vetus, mores, consulta Senatus:
Hæc tria jus statuunt, terra Britanna, tibi.,*

**Civil and
Canon
Law.**

And it may perhaps be said, That Part of the *Civil Law* and the *Canon Law*, are also a Part of the Laws of *England*, they being in Force so far as they are consistent with the Law of the Land in Causes litigated in the Spiritual Courts, and Courts of Admiralty ; but not being in Force in our Courts of Common Law, we do not take Notice of them as the Municipal Laws of the Land.

Reports. Also adjudged Cases in approved Reports, are generally held for Law in the Courts of Justice ; and even the *Rules of Court* do pass for Law in the Courts where they are made ; at least they must be looked upon so by the Clerks and Practisers. As for Instance ; If an Attorney do not plead in Time according to the Rules of the Court, Judgment and Execution shall often go against his Client without Remedy.

Of

Of Actions and Arrests.

BY Stat. 12. Geo. cap. 29. it is enacted, No Arrest that in all Cases where the Cause under 10*l.* of Action does not amount to the Sum of Ten Pounds or upwards in this or any other superior Court, or to the Sum of Forty Shillings or upwards, in any inferior Court, and the Plaintiff shall proceed by way of Process against the Person, in such Case the Defendant, or Defendants, are not to be arrested, but must be personally served, within the Jurisdiction of the Court, with a Copy of the Process, and if the Defendant does not appear at the Return of the Process, or within four Days after, the Plaintiff upon Affida, vit made (of such personal Service) and filed in Court, may enter a common Appearance, or file common Bail for the Defendant, and proceed thereon as if such Defendant had entered an Appearance, or filed common Bail himself; but if the Cause of Action shall amount to Ten Pounds or upwards, Affidavit shall be made and filed ^{If 10*l.* or above, Affidavit made} of such Cause of Action, which Affida vid may be made before any Judge or Commissioner of the Court, out of which such Process shall issue, authorized to take Affidavits in such Court, or else before the Officer who shall issue such Process, or his Deputy, and for such Affidavit one Shilling over and above the Stamp-Duties shall be paid, and no more, and the Sum or Sums specified in the Affidavit,

K's Bench.avit, shall be endorsed on the Back of
 the Writ or Process, for which Sum or
 And the Sum Sums so endorsed, the Sheriff, or other
 mentioned Officer, to whom such Writ or Process
 in the Affida- vit endorsed shall be directed, shall take Bail, and for
 on the Writ. no more ; but if any Writ or Process,
 The Sheriff shall issue for Ten Pounds or more, and
 shall take Bail for no more.
 no Affidavit and Endorsement shall be made as aforesaid, the Plaintiff shall not proceed to arrest the Defendant, but shall proceed in the same Manner as is directed, where the Cause of Action does not amount to the Sum of Ten Pounds in a superior Court, or Forty Shillings in an inferior Court ; this Act to continue in Force five Years, (from the 24th of June 1726.) and from thence to the End of the next Sessions of Parliament.

Peers, &c.
 not to be arrested,
 and how to proceed a-
 gainst such.

Next you must consider whether the Defendant be liable to an Arrest ; for Peers of the Realm, Ambassadors and their Servants, (and Members of the House of Commons, and their Servants, during the Time of Privilege) are not to be arrested. Corporations and Companies cannot be arrested ; but against these you must proceed by *Distringas*, of which more hereafter.

Attorneys,
 how to pro- ceed against them.

Also Clerks of the Office, and Attorneys, and privileged Persons belonging to the Courts of Justice, are not to be arrested, but must be sued in another Manner ; for if they are arrested, they may plead their Writ of Privilege, and come off without Bail. Against these you are to file a Declaration, of which you must deliver

deliver them a Copy, and they must plead K's Bench. the same Term, if you deliver it in Time, and give Rules. And so it is, if a Clerk or Attorney be Plaintiff, the Defendant must give a Plea the same Term and can not imparle to the next, if the Declaration be delivered in Time, and Rules given, though the Action be for Debt on a Bond or Case, and not Fees; and many unexperienced Practisers have been caught for not knowing this Rule, and their Clients taken in Execution when they least feared it.

And you must not only consider the Persons that are to be arrested, but also the Places where they live: For Instance; a Latitat in common Form is not in Force in Wales, nor in the Counties Palatine, neither is it in Force in the Cinque Ports, or their Dependancies. So that if the Suit be against any living in these Places, you must make out a Latitat with a special Direction to such Place, or you may proceed by Quo minus out of the Exchequer.

The Form of a Latitat into the County Palatine of Chester.

Georgius secundus (Ec.) Cam'ario n'rō Com' Palatini n'rī Cestr' sive ejus locum i'bm tenenti salutem Cum Vic' n'rō Middx' nuper p'cepimus (Ec. as in a Latitat to) Lat' & discurr' in Com' Palat'. Cestr' Jo' vobis precipimus quod per bre' n'rūm sub sigil' Com' n'rī Palat' p'd' debo' modo conficiend' & Vic' Com' Cestr' dirigend' manda-ri fac' eid' Vic' quod capiat p'd' C. D. si invent' fuerit in ball'ia sua & eum salvo (Ec.)

Directions to Com' Pal' Lanc'. Cancellario n'rō Com' Palatini n'rī Lancastrie sive ejus locum ib'm tenenti (Ec.)

To Com' Pal' Durham. Reverendo in Christo patri W. providentia divina Dunelm' Episcopo sive ejus locum ib'm (Ec.) ideo vobis precipimus quod per breve vestrum sub sigil' Episcopat' & estri debo' (Ec.) Vic' ejusdem Episcopat' Palat' Dunelm' dirigend' (Ec.)

If to any of the Cinque Ports or their Members the Direction is, Constabular' cast' n'rī de Dover seu ejus lo um ib'm tenen' salutem (Ec. as in a common Latitat). The Cinque Ports are Hastings, Romney, Hithe, Dover, and Sandwich.

K.'s Bench.

A Special Capias, wherein the Action is set forth at large.

Vide post

312. the Method of Suing out these Writs and Proceeding thereon.

Bill Middx'.

* If the action be Bailable, and Affidavit made of the Debt, otherwise a Copy of the Writ is to be served on the Defendant.

Latitat.

You may also in this Court have a *special Capias* by way of *Original* against the Defendant, in order for a Trial the same Term it is returnable, provided such *Capias* be returnable the first Return in *Hill'* or *Trin'* Term, or the first or second Return in *Easter* or *Michaelmas* Term. You draw a *Precipe* or Instruction for the Filer, wherein the Action is set forth at large as in a Declaration. But you may make out the *Capias* yourself for Expedition, and carry it (with the *Precipe*) for him to sign. It must be returnable *coram nob'*, as in *Octab' S'ci Hill' ubicunque (&c.)* and not *die p'x post Octab'*.

So, then taking it for granted, that the Defendant is liable to an Arrest, and that he doth not live in any of these exempted Places, and that the Plaintiff is not a Clerk, or Attorney of the Court, (for then he may have an Attachment of Privilege to arrest the Defendant) in such Case, if the Defendant live in Middlesex, the First Process of the Court is generally a Bill of *Middlesex*, which is a Precept of the Court, and not the King's Writ, nor in his Name, returnable at a Day certain; it hath no Teste, nor is it used but where the Plaintiff is to proceed by Bill without Original Writ: This Precept is to * Arrest the Defendant in *Middlesex* only, and not elsewhere: But if the Defendant live in *London*, or in any other County, then you must make out a *Latitat* directed to the Sheriff, or Sheriffs of that Place; which *Latitat* supposeth a Bill of *Middx'* to have been first sued out.

But for the better Understanding of the Nature and Reason of this Bill of *Middlesex*

sex, we shall repeat something of the an K's Bench. ancient Practice of the Court which originally followed the King, and was kept where-ever he was in *England*; and that is the Reason, that when you sue by Original, whereof you will herein find Original. some Instructions in the Title Ejectment, then all your Writs must be returnable *ubicunq; tunc fuerimus in Angl;* and not *apud Westmonasterium,* which ancient Practice is still sometimes very necessary, pursuing the old Method used before the Court was settled at *Westminster*; after which Settlement this Bill of *Middlesex* was given to arrest Persons that lived in *Middlesex*, and if they could not be found there, the Sheriff returned a *Non est inventus*, and thereupon a *Latitat* issued to take the Defendant in any other County; so that the *Latitat* was in the Nature of a *Testatum* Bill of *Middlesex*, and did always suppose a Bill of *Middlesex* to be taken out and returned before; and so it is recited in the *Latitat*, as you may observe by the Word *Testatum* therein, though the Taking out of the Bill of *Middlesex* thereupon hath been long since omitted.

And here you must observe, that tho' it is generally called a Bill of *Middlesex*, yet it may happen to be a Bill of any other County: For Instance, when the Court of *King's Bench* was held at *Oxford* by Reason of the Visitation, then it was a Bill of *Oxford*, and so supposed in the *Latitat*, and ty. not *Wic Midd*; and also observe, that the antient Practice was, that the Plaintiff's Declaration

Bill of Middlesex may happen to be a Bill of any other County

Bill of Middlesex.

K's Bench Declaration, which is also called a Bill
 (as in the Record of *Pisi prius*, (viz.)
Protulit hic in Cur' tunc ibm quandam
Billam suam, &c.) being engrossed in
 Parchment, was filed in the Office (as it
 is still used in many Cases); and very of-
 ten the Return of the Bill of *Middlesex*
 was endorsed upon it: So that when the
 Proceeding is not by Original, nor by
Distringas, which is against Peers of the
 Realm, Corporations and Bodies politick;
 nor against Clerks of the Office, and At-
 torneys and Prisoners, the first Process
 generally used is this Bill of *Middlesex*;
 the Form whereof follows.

The Form of the Bill of *Middlesex*.

You may
 put four De-
 fendants in
 one such
 Writ.

Middx' II. P Recept' est Cie quod capiat
 A. B. si sc. Et eum salvo, &c.
 ita quod heat corpus ejus coram Dño Rege a-
 pud Westm die Mercurii pr post tres sep-
 timanias Sed Michs (the Day of the Re-
 turn) ad respond' C. D. de Plito transgt
 Et heat ibi tunc hoc Precept.'

p Bill. Ventris

And on the Back-side write the Clerk's
 Name that sues it out, and the Day of
 the Month.

On this Process if the Plaintiff
 has not made Affidavit, or the Debt
 be under Ten Pounds, the Defen-
 dant is not to be arrested, but you
 must serve him personally (within the
 County of *Middlesex*) with a Copy of
 this Precept; and if the Defendant does

not appear at the Return of the Writ, K's Bench: or within four Days after, the Plaintiff (upon Affidavit being made of such personal Service, which Affidavit shall be filed gratis) may file common Bail for the Defendant, and proceed thereon in the same Manner, as if such Defendant had himself filed common Bail; but if the Action be for Ten Pounds or above, and Affidavit has been made as is before directed, the Sum mentioned in such Affidavit must be endorsed on the Back of the Writ or Process, in order to hold the Defendant to good Bail. Then after the Words *De placito inscri*, you must add,

* Or 20,
30, 40l.

according as
the Sum is
in the Affi-
davit.

Ac etiam Bille ipsius C.D. & s̄us pſat' A.B pro decem* Libris de debo scđm Cons. Cuf ipsius Dñi Regis coram ipso Rege exhibend' Et heat, &c. (ut supra.)

Note, no Ac-
Or if there be any other Special Cause *etiam* against
for Bail, it must be added with an Executors,
acetiam Bille; for Trespass alone will or Admini-
not hold the Defendant to Bail. As strators, or
Heirs at Law.

If for Trespass and taking away Goods, Trans'.
say, Pro caprone & asportacione Bonorum &
Catalorum ipsius C. ad dampnum virgin' libe
sc'd'm, &c. as before.

Pro detencione Bonorum & Catalorum ipsius Detinue.
C. ad Valenc 40l. sc'd'm, &c.

Pro convercone & dispositione Bonorum & Trover.
Catalorum ipsius C. ad Valenc 40 l.

Bill of Middlesex.

K's Bench. Pro Fraccone Convencio ad dampnū
 ~~~~~ ipsius C. 60 l. scdm cons', as before.

Covenant. Acetiam Writ ipsius C. & lus pfat A. pro  
 Assumpst. 20 l. sup' assump' secund cons', as before.

Stat. 13. Car. 2. cap. 2. But in Case the Cause of Action is for  
 Words, or Ejectment, or Trespass only, no

Battery. Special Bail is required. Yet if it be a dan-  
 gerous Assault and Battery, as the breaking  
 a Man's Skull, the Indangering the Loss  
 of an Eye, or a *Mayhem*, the Plaintiff

An Affidavit must be made of the Facts. may make Affidavit before one of the Ju-  
 stices, setting forth his Case, and the Judge  
 as he sees Cause, will order the Defen-  
 dant to be held to Bail, in such Sum as he  
 shall think fit ; and then 'tis usual to insert  
 in the Writ ac etiam bille ipsius, C. D. & lus  
 ipsum A. B. p verba on' vulnacion & maletrac-  
 conad dampnū ipsius C. 20. l. &c. or as the Case is ; and the Plaintiff's Attor-  
 ney ought to be careful, not to omit such holding the Defendant to Bail, lest after  
 the Trial the Defendant being cast should absent himself.

## An Affidavit to obtain a Special Acetiam.

A. B. of W. in the County of S. Clerk, maketh Oath that on Thurs-  
 day, the—day of—last past, he this Deponent going to view, whether the Tithe-hay, on the Lands of C. D. of W. a-  
 foresaid, were ready to be set forth, the said C. D. did then in the said Field,  
 without any reasonable Cause, in a vio-  
 lent Manner, assault, beat, and throw  
 this

this Deponent on the Ground, this De- K's Bench:  
ponent making no Opposition, or Re-  
sistance against the said C. D. but this  
Deponent being rescued by some Per-  
sons present from the said D. the said D.  
did again, as soon as he got loose from  
the Persons that rescued this Deponent,  
a Second time assault, throw down, beat  
and kick this Deponent several times a-  
bout the Head and Body ; so that the  
Blood gushed out at his Ears, which oc-  
casioned this Deponent the Loss of his  
Speech and Hearing for some Time, as  
to render him uncapable of performing  
his Duty in the aforesaid Parish, he be-  
ing Minister of the same ; and this Depo-  
nent further saith, that he the said D.  
hath often declared, that it was no Crime  
for any Man to kill or destroy this De-  
ponent.

A. B.

Jurat' 20 Octob. 1725.

Coram me E. F.

The Judges  
Order there-  
upon.

Let a *Latitat* be Issued forth  
against C. D. with an *Ac-  
etiam* of 20 l. at the Suit of  
A. B. upon this Affidavit.

Dated 20 Octob. 1725. E. F.

Having

## Bill of Middlesex.

Having made your Bills of *Middlesex* on a Piece of Parchment, (but you may buy Blanks ready for filling up) you must also make a Note on Paper, which you are to carry with your Writ unto the Office when you get such Writ Signed; in this Manner.

The Note  
for the Of-  
fice. *b m*  
*Middx'. s. Bill p C. D. & A. B. ret' die*  
*Mercurii pr' post tres Sept' dec' Mch's.*

Pleadwell.

B. M. sig-  
nifies *boni  
manucaptores*,  
or good Bail.

If it require Bail. you must mark the Paper with a B\* over the Defendants Christian Name, and an M over his Surname, and a Stroke under both, as you see above.

The Bill is to be signed at the Bill of *Middlesex* Office, and the Note, and Affidavit of the Debt to be left there; for which Signing you pay in the Term-Time Six-pence, in the Vacation Ten-pence.

A Special  
Warrant to  
Charge any  
Person in  
Custody of  
an Officer, or  
a Warrant  
upon an O-  
riginal, *Fi.  
fa. &c.* is  
2 s. 4 d.

Upon this Bill you must have a Warrant at the Sheriff's of *Middlesex* Office which costs Four-pence.

And if in *Westminster*, the Warrant from the high Bailiff, 2 s. 4 d.

If the Defendant be not taken upon the first Bill, you may make an *Alias*; and if not upon that, then a *Pluries*; only saying *Precept' est ut sic scut alias* (or *sicut pluries*)

pluries) tibi pcept' fuit quod capiat, &c. for K.'s Bench the Signing of which Writ, you pay but Two-pence if within a Year after the first or second Bill sued out, setting down the Time that the first Bill of *Middlesex* was made out.

You may save the Statute of Limitations, by suing out this Bill of *Middlesex* within six Years after the Debt, &c. contracted, and getting of it returned *Non est inventus* by the Sheriff, then enter it on a Roll, and file the *B. M.* with the Signer of the *Latitats*, and carry the Roll to the Clerk of the *Docquets* who will enter it, and you afterwards file the Roll as in common Cases.

The Entry of a Bill of *Middlesex* on the Roll, to save the Statute of Limitations is thus.

*Middx s. P* Receipt' est Wic quod Capiat A.  
B. & E. H. si invent' fidint in  
bailia sua & os salvo custod' ita quod heat cor-  
pora eorum coram Domino Rege apud Westm die Mercur' pr' post tres Septem' sed Trin ad  
respondend C. D. de placito Transgr' aceti-  
am Ville ipsius C. versus pfat' A. pro 20 l.  
sup assumpcio secundum Cons' Cur' ipsius Dom Regis coram ipso Rege exhibend & heat  
ibi tunc hoc pcept'.

p Bill.

Ventris.

Ad quem diem coram Dom Rege apud Westm vnu pedit' C. in propria persona sua & obculit se vers' pfat A. in placito p-  
dia'

E

K.'s Bench. dig' Et Vic' Middx videlicet O. P. Vic & R. S. Vic Retorn quod p̄dia' A. non est invencus in Walliva sua.

## The Form of a Latitat.

Stamp treble 6 d.

**G**orgius Franc

Dei Grā Magne Britān  
& Hibernie Rex Fidei De-  
fensor, &c. Vic Somerset  
salutem Cum Vic nro Middx  
nūp p̄cepimus qd capet C.  
D. & E F. si inveni' fuissent  
in Walliva sua & eos salvo cu-  
stod ita quod heret corpora  
eōꝝ coram nobis apud Westm  
ad certum diem jam p̄terit' ap  
respondens A. B. de placito  
translgi' \* ac etiā Bill' ipsius  
A. versus p̄fat' C. pro decem  
Libris de debito secundum  
Cons' Cur' noſtre coram No-  
bis exibend Dicūsque Vic  
diem illi nobis retorū Quod  
non sunt inveni' in Walliva  
sua super quo ex parte p̄red  
A. in Cur' noſtra coram no-  
bis sufficien' testat' est Quod  
p̄red C. & E. latit' & discute  
in Com' & tuo Iō tibi p̄cipi-  
mus qd Capias eos si invent' fuerint in Bal-  
liva tua & eos salvo custod ita quod habeas  
corpora eōꝝ coram nobis apud Westm die  
Mercurii prox' post tres septimanas sci'  
Michis' ad respondens p̄fat' A. de placito &  
Bill'

\* If the County have two  
Sheriffs, it must be Com' vro  
Fo vobis p̄cipimus, and so the  
rest in the Plural Number.

nr' Middx ad  
p̄red C. & E.

If the County have two  
Sheriffs, it must be Com' vro  
Fo vobis p̄cipimus, and so the  
rest in the Plural Number.

mus qd Capias eos si invent' fuerint in Bal-  
liva tua & eos salvo custod ita quod habeas  
corpora eōꝝ coram nobis apud Westm die  
Mercurii prox' post tres septimanas sci'  
Michis' ad respondens p̄fat' A. de placito &  
Bill'

Bill' p̄es Et habeas ibi tunc hoc b̄e Teste The Teste of  
 R̄bto Raymond, Mil apud Westm̄ duodecimo, this Writ  
 timo . . . die Anno Regni nrd decimo tertio. may be made  
 any Day in

Term, that  
 Ventr̄is. is a Day in  
 Court, but

the usual way is, in Term-Time, if to make the Teste thereof  
 the first Day of the Term: But if it be made in the Vacan-  
 tion, then make the Teste thereof the last Day of the prece-  
 ding Term. 2. Salk. 700.

If it be against several Defendants, for several unequal  
 Sums in Case and Debt, then it must be, *Ac etiam Bill' ipsius  
 N. ver. prefat' Johannem pro 20 Libris super assumpcon' & versus  
 p'fat' R. pro 30. Libris de deb' sedm' &c.* If against several Defen-  
 dants in Case, you say, *Acetiam Bill' ipsius N. ver. prefat' Job' pro  
 20l. super Assump' ac ver. p'fat' K. pro 30 super Assump', &c.* But if two  
 are severally bound in a Bond of 20l. then the *Acetiam* must  
 be *pro 20l. de debito separatim*, and the same of a Note: *Pro 20l.  
 sup. Assump' separatim.*

You must make a Note on Paper in  
 Court-Hand, for the Office, thus;

Som̄s ll. s Ld p A. B. versus C. D. b m. Precipe for  
 the Office.

b m.

E. F. ret' die Mercurii prox' post tres  
Mich.

Pleadwell,

marking it as above, if the Cause require  
 Bail.

If it be for a *Qui tam*, upon a Penal  
 Statute, you say, *Ad respondens A. B. Qui  
 tam p Rob qm p seipso in hac parte se-  
 quitur de pñto trans' (only).*

Note, That upon a *Qui tam* in C. B.  
 some Philazers insist for a Fine to be paid  
 the Cursitors, but not in B. R.

K.'s Bench. The Latitat filled up, you carry it with the Note to the King's Bench Office in the Temple, where your Latitat must be signed, And the Affidavit of for which you pay 2*s.* 6*d.* and you must the Debt. \* leave the Note with the Signer.

Being signed, you carry it to the Seal-Office, and he who seals for the King's Bench will seal it, and stamp the Day on the Back, for which you pay 7*d.*

The next Thing is to get a Warrant upon it from the Sheriff of the County.

The Entry of a *Latitat* on the Roll, to prevent the Statutes of Limitations occurring.

Angl. ff. D omnis Rex mandavit Vic' Sussex breve suum clausum in hæc verba ff. Georgius Dei gra' Magn', &c. Vic' Sussex salutem Cum Vic' nostr' Midd', &c. and so on to & habeas ibi tunc hoc Breve Teste Robt' Raymond Mill' apud Westm' vicesimo-nono die Julii anno Regni nostri duodecimo. Ventris. Ad quem diem *the Return of the Writ* coram dicto domino Rege apud Westm' ven' prædict' A. B. in propria persona sua Et Vic' Com' Sussex videlt' Johannes M. Bar' return' quod prædict' Elizabetha non est invent' in balliva sua Et eadem Elizabetha non ven' Ideo sicut alias præcept' est Vic' quod caperet præd' Elizabetham si invent' fuerit in balliva sua & eam salvo custod' ita quod haberet corpus ejus eoram dict' domino Rege apud Westm' die prox' post' *the Return of the Alias latitat ad respondent' præfat' A.* de placito prædict' idem dies dat' est præfat' A. ibm', &c.

If the Defendant cannot be arrested upon the Latitat, you may sue out an Alias Capias; and if not taken upon that, then a Pluries Capias,

The Form of an *Alias Capias*.

Georgius Dei Grāmagne Britānī Frānc  
 & Hibernie Rex Fidei Defens, &c.  
 Vt Sōnis salutem Precipimus tibi sicut alias  
 tibi pcepimus Quod capias C. D. & E. F.  
 si invent fuerint in balsia tua & eos salvo  
 custod ita quod heas corpora eoz coram no  
 bis apud Westm die \* . . . pr' post . . .  
 Ad respond A. B. de placito censgr Acetiā  
 bill ipsius A. bals pfat C. & E. pro decent  
 Libris de debo secundum Cons' Curē nre  
 coram nobis exhibend Et heas ibi tunc hoc  
 Wīd T. R. Raymond Mīl apud Westm  
 die . . . Anno rūd nrd Duo decimo.

Ventrīs.

And indorse the Name of the Clerk that  
 sues it out, and the Day of the Month.

The *Pluries Capias* is the same with the  
 Alias, only saying, Precipimus tibi sicut plu  
 ries tibi pcepimus, &c.

You must make a Note for the Office  
 as for the *Latitat*,

b m b m  
 Sōnis d. Als' p. A. B. & C. D. & E. F.  
 ret' die . . . pror' post . . .

Pleadwell.

You must insert on the Bottom of your  
 Precipe when the Original Lat' issued out. For signing

The Alias and *pluries Capias* must be the *Alias* or  
 signed at the *King's Bench Office* (for which *Pluries* no  
 you pay no Fee or Duty.) Fee is paid.

K's Bench.  


Quars.

After your Alias or Pluries signed,  
 you get them sealed, as above, and  
 pay 7d. for each.

*Note*, you may continue your Pluries Capias from Term to Term, until the Defendant be arrested; but observe, that if the Latitat was not renewed within five Terms after it was taken out, then you cannot renew it by Alias or pluries; but you must sue out a new Latitat.

*Note*, When there are Three or Four Defendants in one Writ, and some of them Special, and some not; as if your Directions be for a Bill or Latitat for A. B. against C. D. p 10l. de debto E. F. in Trespass G. H. p 17l. 10s. 8d. sup assumptione J. K. p conversione & asportatione Bonorum & Catalogorum ad dampnum 100l.

In Debt.

Then after the Words, de placito tristis  
 you say Acetiam Bill ipsius A. B. dñs p-  
 fat C. D. p decem Libris de debto ac dñs p-  
 fat G. H. p septemdecim Libris decem So-  
 lid & octo Denar sup assumptionem ac dñs p-  
 fat J. K. p conversione & asportatione Bo-  
 non & Catalogo ipsius A. ad dampnum Cen-  
 tum Librarum sedm Cons' Cur' nre coram  
 nobis exhibend, &c.

Trover.

Case.

If two of the Sums be alike in Debt,  
 or on Promise, as A. D. against  
 C. D. and E. F. p 40l. Debt,  
 and G. H. in Trespass.

Then say, Acetiam Bill ipsius A. dñs p-  
 fat C. D. & E. F. p 40l. de Debo sepa-  
 ratim secundum, &c. or p 40 sup assump', &c.

In Covenant say, In plito convention' K.'s Bench.  
fract' ad dampnum ipsius A. B. 301.

Note, If any of your Defendants live within a Liberty where the Sheriff may not enter, you must get the Sheriff to direct his Warrant on your Writ to the Bailiff of such Liberty, who may execute it; but if the Bailiff of such Liberty do not execute it, then you must at the Return of your Writ, get the Sheriff to return a *Mandavi Ballivo* thereon, and thereupon *Mandavi Ballivo.* you may make out a Writ called a *Non Omittas*, directed to the Sheriff, and upon that Writ the Sheriff's Officers may, upon the Sheriff's Warrant made out thereon, enter and execute the Warrant within such Liberty.

The usual Practice is, you sue out a *Lat.* or *B. M.* in to the County where the Liberty is, and a *Non Omittas* at one and the same Time, but make the *Lat.* returnable before the Teste of the *Non Omittas*, which must be tested the fourth Day inclusive of the Return of the *Lat.*

### The Form of the *Non omittas.*

**G**eorgius Dei Gracia, (sc.) Vice Comis  
saltim Precipimus tibi quod non os-  
mittas propter aliquam Libertatem in Com-  
tuo quin eam Ingredias & Capias C. D. &  
invent' fuerit, sc. as in an Alias Capias.

If you sign the *Non Omittas* at the same Time with the *Latitat*, you pay nothing for signing thereof, but only 2s: 6d. for the *Lat.*

## Bail-Bond.

Bail.

**W**HEN the Sheriff arrests the Defendant, he by his Officers takes a Bail-Bond, for the Defendant's Appearance at the Return of the Writ.

By the Act 12 Geo. c. 29. the Sheriff shall take Bail for no more than the Sum endorsed on the Writ.

But if the Defendant is served with a Copy of the Process, the Action requires only a common Appearance, and then an Attorney may cause common Bail to be filed for the Defendant at the Return of the Writ. Or if the Defendant neglect to appear, or cause Common Bail to be filed, the Plaintiff, on Affidavit being made and filed in Court of the personal Service of the Writ, may within 4 Days after the Return, enter a common Appearance, or file common Bail in the Defendant's Name, and proceed thereon. The Form of a common Bail-piece you will find after.

But where the Defendant is arrested on any of the aforesaid Writs and doth not appear, that is, doth not file Special Bail, as the Writ requires, then the Plaintiff's Attorney must call on the Sheriff for a Return of the Writ, that is, an Answer endorsed on the Back of the Writ, whether the Defendant be arrested or not: If the Sheriff make Delay, as it often happens, when the Bail-bond is not brought into his Office, or when the Officer hath taken insolvent or insufficient Bail, or hath let the Defendant escape, then the Plaintiff's

tiff's Attorney must give a Rule with the K.'s Bench. Clerk of the Rules, for the Sheriff of the County to return the Writ, and serve the Sheriff, or his Deputy with a Copy; if turn the the Sheriff doth not return the Writ at the Writ, Time mentioned in the Rule, the Plaintiff's Attorney may move at the Side-bar to have the Sheriff amerced, shewing the Rule wherewith he was served, and the Clerk of the Rules, who always attends there, will draw up the Side-bar Rule, and then you may estreat the Americaments into the *Crown-Office*, which costs Two Shillings a-piece; but the usual Course is to shew the Sheriff the Rule, and tell him you will estreat the Americaments, if he doth not return the Writ. If he doth still delay you, you may summon him before a Judge to shew Cause, or at last move the Court against him.

When you have a *Cepi Corpus* returned, if there be no Appearance or Bail, you may have a Rule to bring in the Body, if you do not like the Bail which the Sheriff has taken, and amerce him the first Time 40*s.*—and moving at the Side-bar double the Americaments from Time to Time, till you have enough to answer the Debt, which you may also estreat; the Rule to be drawn up with the Clerk of the Rules will cost each Time 3*s.* which must be served on the Sheriff or his Deputy from Time to Time, or you may upon the Sheriff's not returning the Writ upon the first Rule, upon Affidavit of Service of such Rule, move for a peremptory Rule for

K.'s Bench. for him to return the Writ at a certain Day, which if he disobeys, the Court upon Affidavit of Service will grant a Rule for him to shew Cause why an Attachment should not issue against him, which seems to be the most speedy way of proceeding: If the Defendant doth not yet put in Bail, you may have a *Habeas Corpus* on the *Cepi*, (which see after) or you may proceed by Amerciaments as before, and so you may, if the Sheriff do not return the *Habeas Corpus*: But generally the Sheriff having taken good Bail (upon a Rule given on the *Cepi* when the Rule is out) will assign you the Bail-bond, and many Times upon Request without a Rule, ' and then you may arrest the Defendant and the Bail, at the Suit of the

\* This Practice is altered by 4 & 5 Ann. See after. \* Sheriff on that Bond. But you must not put an *acetiam Bill* in the Writ, though the Penalty of the Sheriff's Bond be never so great, for there is no Bail required at the Sheriff's Suit: You must also observe, that if the same Sheriff be still in his Office, your Writ must be directed to the Coroners of the County, and they must grant you a Warrant on the Writ, for which they will take 2 s. 4 d. a Name; and so ought your *Venerare fac.* to be to the Coroners: But if a new Sheriff be sworn, then you may make your Writs to the new Sheriff and proceed as in other Cases.

## Coroners.

But this Practice is altered by the Stat. 4 & 5 Ann. Sect. 21. for Amendment of the Law, whereby it is enacted, That if any Person or Persons shall be arrested by any

any Writ or Process, issuing out of any of K.'s Bench<sup>s</sup> Her Majesty's Courts of Record at West-<sup>W</sup>minster, at the Suit of any common Person, and the Sheriff or other Officer taketh Bail from such Person, against whom such Writ, Bill or Process is taken out, the Sheriff or other Officer at the Requests and Costs of the Plaintiff in such Action or Suit, or his lawful Attorney, shall assign Bail-Bond to the Plaintiff in such Action the Bail-<sup>assigned to</sup> bond or other Security taken from such Plaintiff or Bail, by indorsing the same, and attesting <sup>his Attorney.</sup> it under his Hand and Seal in the Presence of Two or more credible Witnesses, which may be done without any Stamp, provi- \* The Stamp ded the Assignment so indorsed be duly is double 6 d.  
\* stamp before any Action be brought there-  
upon; and if the said Bail-bond or Assign-  
ment, or other Security taken for Bail be A<sup>n</sup>ction on the  
forfeited, the Plaintiff in such Action af-  
ter such Assignment made, may bring an  
Action and Suit thereupon in his own  
Name; and the Court where the Action  
is brought, may by Rule or Rules of the And the  
same Court, give such Relief to the Plain- Court by  
tiff and Defendant in the Original Acti- Rule give  
on, and to the Bail upon the said Bond, the Plaintiff  
or other Security taken from such Bail, as Satisfaction.  
is agreeable to Justice and Reason; and  
that such Rule or Rules of the said Court,  
shall have the Nature and Effect of a Such Rule to  
Defeasance to such Bail-bond, or other Se- be as a De-  
curity for Bail. feasance.

But

K.'s Bench. But since the Act of 12 Georgii, the  
 Bail are not to be arrested on the Assignment of the Bail-Bond, but you make a Copy of the Writ on the Bail-Bond, and personally serve the Defendant and his Bail.

The former Act also provides, That the Attorney for the Plaintiff or Demandant in any Action or Suit, shall file his Warrant of Attorney with the proper Officer of the Court where the Cause is depending, the same Term he declares; and the Attorney for the Defendant or Tenant shall file his Warrant of Attorney, as aforesaid, the same Term he appears, under the Penalties inflicted upon Attornies by any former Law, for Default of filing the Warrants of Attorney.

If you are for the Defendant, put in Bail above, and give Notice you will move the Court to tax the Costs on the Bail-Bond, &c.

\* You need not alledge it in the Notice.

If you are for the Defendant in the Action, then the best Course to stay Proceedings on the Bail-Bond is, first, To put in special Bail; and then give Notice that you will move the Court, that the Secondary may tax the Costs on the Bail-Bond, and \* alledge that you are ready to receive a Declaration in the Original Action, and to plead and try it that Term, and not to delay the Plaintiff. Upon such Notice, and a Motion to the like Purpose, the Court will make a Rule; draw up that Rule, and carry it to the Secondary, and he will appoint a Day when both the Attornies shall attend him; and the Plaintiff's Attorney being served with the Rule and Appointment, brings in the Bill of Costs, which the Secondary taxes, and the

the Defendant must forthwith pay and receive a Declaration.

Many Times the Attornies agree these Things amongst themselves, without troubling the Court.

If the Attorney for the Plaintiff will not agree, you may summon him before one of the Judges of the Court, who will make an Order to the same Purpose at his Chambers; provided you apply in Time, that is, before the Plaintiff has lost the Advantage of a Trial, or obtaining Judgment against the Principal, and putting the Plaintiff in as good a Condition as if the Bail-Bond had not been assigned.

If the Action be in *London* or *Middlesex*, and bailable, you must within Four Days after the Return of the Writ (exclusive of the Appearance-Day) put in Bail above, or the Bail-Bond may be assigned.

If the Defendant is arrested in any Action within the Distance of Forty Miles from *London*, and no Bail is put in above, or Bail-Piece transmitted within Eight Days after the Return of the Writ, to one of the Judges, the Bail-Bond may be assign'd. But in Case it be above Forty Miles Distance from *London*, Bail must be put in above, or the Bail-Piece transmitted within Fifteen Days after the Return of the Writ, otherwise the Bail-Bond may be assigned.

When you have put in Special Bail, you must give Notice to the Plaintiff's Attorney the Names, Places of Abode, and Additions of their Trade or Vocations, that the Plaintiff

K.<sup>s</sup> Bench. Plaintiff may know how to enquire after them.

Exception. Twenty Days are allowed to except against Bail after Notice, and you should add or justify in Eight Days after such Exception.

Bail cannot be justified before a Judge at his Chambers, except by Consent, or for Necessity in the Vacation, and in the latter Case it ought to be justified again in Court, in Term.

If the Plaintiff excepts against the Bail, you must desire the Judge's Clerk before whom the Bail was taken, to bring up the Bail-Piece to Court, for which you pay him 2*s.* 6*d.* and then justify your Bail in Court; but you must give the Defendant's Attorney Notice of such Justification, and an Affidavit must be made of the Service thereof, and if the Defendant is not in Court, the Bail must each swear they are worth double the Sum the Action is for.

If the Defendant appear in Person, and then he appears in Person, and so it is mentioned on the Bail-Piece; and therefore it is fit, when you have Notice of Bail to be given in Court, that you do attend: For then, if the Defendant doth appear in Person, the Secondary who takes the Bail, will give you Notice, if you be present; and you must declare within three Days, or else may be *Non pros'd* with Costs.

But

But here note, That if the Defendant K.'s Bench. be held to Special Bail, and that he doth ~~not~~ not really owe the Plaintiff 10*l.* the Defendant may have a Summons from any of the Judges of the Court of King's Bench, for the Plaintiff to attend the Judge to shew his Cause of Action; then the Defendant's Attorney must make a Copy of the Summons, and deliver it to the Plaintiff's Attorney, shewing him the Original at the same Time: And the Defendant's Attorney must attend the Judge at the Time limited in the Summons; and if the Plaintiff doth not make Oath or prove that the Defendant owes him 10*l.* the Judge will order the Defendant to file common Bail, and all Proceedings on the Bail-Bond to stay, and the Defendant's Attorney must file a common Bail-Piece; if the Plaintiff doth expressly make Oath there is 10*l.* due to him, the Defendant will not be admitted to make Affidavit to the contrary: But if the Plaintiff's Attorney do not appear on the first Summons, the Defendant must take out a second, a third, and serve them, and attend. And it is often of great Consequence to the Defendant not to be held to Bail.

## The Form of the Habeas Corpus upon a Cepi.

**G**eorgius Dei Gratia, &c. Vice N. saltem  
Precipimus tibi quod corpus A. B. in  
prisona nostra sub custodi tua detent' p[er]tinet tu  
ipse per returnum tuum in Curia nostra coram  
nobis alias inde miss. te ipsum o[n]asti habeas  
coram nobis apud Westm die —— ( &c. )  
ad respondend C. D. de placito tuisq[ue] ac-  
etiam Will ipsius C. versus prefat' A. p[er] Cen-  
sum libris de debito secundum cons[uetudinem] Curie  
coram nob[is] exhibend Et habeas ibi tunc hoc  
breve Teste R. Raymond, Will apud Westm  
28. die Novembris Anno Regni nostri de-  
cimo t'io.

Sometimes the Sheriff will return *Languidus in Prisona*, whereupon you may have  
an *Habeas Corpus* licet *languidus detent'*.

The Form whereof is as follows

**G**eorgius Dei Gratia, &c. Vice N. saltem  
Precipimus tibi quod corpus A. B. per  
te Capt' & in prisona nostra sub custodi tua licet  
*Languidus* detent' sicut per returnum tuum  
in Curia nostra coram nob[is] miss' nobis  
liquet manifeste habeas coram nobis apud  
Westm die —— ad respondend C. D. (as be-  
fore) Et habeas ibi tunc hoc breve, &c.

*Note*, At the Return of all or any of  
these, you may amerce the Sheriff, as  
before observed.

In what Cases Special Bail is required.

K.'s Bench.

Note, in the Court of King's Bench, if the Defendant be indebted to the Plaintiff by Bill, Bond, or otherwise, to the Value of 10*l.* or upwards, you may force him to put in Special Bail, as the Act 12. Geo. directs.

But in Case for Words, Ejectment and Trespass, Bail is not insisted on : Except in some special Cases, and if the Court so Order.

Neither is Special Bail required against Heirs Executors or Administrators in any Action brought against them, unless in such Case where they have wasted the Goods of the Testator.

By the Rules of this Court, Special Bail is required in all Causes of Removal, be it by *Habeas Corpus*, Writ of *Privilege*, *Certiorari*, or the like, except where the Defendant is sued as Executor or Administrator ; for then he is not to give any Special Bail upon the Removal. Note, The Defendant is not obliged to give the Plaintiff's Attorney Notice of Bail, being put in on the *Habeas Corpus* ; and if the Plaintiff does not take out a Rule for better Bail in 28 Days Time, the Bail must stand.

### Of Common Bail.

If the Defendant be served with a Copy of the Process, he must appear at the Return ; and the Manner of Appearance in the King's Bench is by Bail, which is either

K.'s Bench either Common or Special, as the Case  
 requires ; and it is to be written on Parch-  
 ment, and filed in the Office if Common ;  
 and before a Judge, if Special, as is be-  
 fore observed.

Which Appearance or Common Bail, by the  
 Stat. 5 and 6 William 3. cap. 21. and 9.  
*Wil. 3. cap. 25.* the Defendant was to enter  
 or file within Eight Days after the Re-  
 turn of the Process on which the Defen-  
 dant was arrested, on Penalty of 5 l. to be  
 paid to the Plaintiff ; for which the Court  
 could immediately award Judgment, and  
 the Plaintiff might take out Execu-  
 tion.

But now by the Statute 12 Geo. if the  
 Defendant is served with a Copy of the  
 Process, and does not appear within Four  
 Days after the Return thereof, the Plain-  
 tiff, on Affidavit being made of such Ser-  
 vice, and filed in Court with the Clerk  
 of the Rules, may file common Bail for  
 the Defendant, and proceed thereon as  
 if such Defendant had filed common Bail  
 himself.

The Bail-Piece is usually cut out in the  
 Shape and Proportion as follows.

A Common Bail-piece upon Cepi Corpus, or  Appearance.

De termino sed Michs Anno 13. Georgii  
Regis.

The Term  
the Writ is  
returnable  
of.

London S. A. W. de, sc.

Tradit in Wallum sup Cep  
Corp

Joh Doe de Lond Yeoman.

Ric Roe de eod Yeoman.

Pleadwell }  
Attorn }

Ad lea' C. D.

Note, Stamp  
double, 6 d.

Note, These Writs, Notes and Bail-pieces,  
must be in Court-hand.

## Of special Bail.

K.'s Bench.

The Special Bail-piece before a Judge, is  
made thus upon a *Cepi Corpus*.

This Bail  
*per regulam Cur'* ought  
to be filed,  
(i. e. taken  
from the  
Judges  
Chambers)  
and left with  
Mr. Hawley,  
the Signer of  
the *Latitats*,  
within 20  
Days if the  
Plaintiff ac-  
cepts it.  
No Bail to  
be put in for  
a greater  
Sum than in  
the Process.

## De Termino, &amp;c.

Soms'. s. A. B. de C. in Comt p  
Yeomd

Tradit' in Battium sup  
Cepi Corp D. E. de  
F. &c. [naming the  
Persons that are Bail,  
their Additions and  
Place of Abode.]

Pleadwell }  
Attorn }  
y

Ad sectam  
G. H.

Cut in the same Shape as the  
former.

Note, Double  
12 d. Stamp.

Thus

Thus upon a *Habeas Corpus* before a Judge.

By Rule of  
Court 28  
Days Time is  
allowed for  
Exception.

De Termino, (sc.)

Somers S. A. B. de C. in Coram p<sup>r</sup>  
Peom

Tradit<sup>r</sup> in Wallium suz  
Hēas Corp D. G. de  
F. G. de . . . . .

Pleadwe<sup>l</sup>  
Attorn<sup>y</sup>

Ad sectam Quer<sup>r</sup>  
in querel<sup>t</sup>.

Note, Stamp  
double 12 d.

No Executor or Administrator, on *habeas Corpus*  
shall put in Bail, but that in all other Actions Bail  
shall be put in; Scandalous Words, and little  
Insults excepted, *per regulam Cur*r**.

K.'s Bench.

**N**Ote, It is enacted Stat. 4. W. & M. c. 4.  
That Bail may be taken in the  
Country before a Special Commissioner  
for that purpose authorized by the Judges  
of the King's Bench, Common Pleas, and Ba-  
rons of the Exchequer respectively.

In the King's Bench there are Orders  
put forth by the Judges for that Purpose,  
which are as follow.

*Orders to be observed by Commissioners for  
taking Special Bail in the Country upon  
Actions and Suits depending, or to be depend-  
ing in his Majesty's Court of King's Bench.*

Orders for  
Bail before  
Commissio-  
ners.

**F**irst, it is ordered, That the Bail-piece  
shall be fairly drawn and ingrossed in  
Parchment, in the Form following, *viz.*

|                                          |                                                                                                                                                                                                                                                                                                                                                         |
|------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>A. B. Attorn<sup>y</sup> pro Def.</b> | Biddr s. Johannes Doe<br>de Islingt' in Comd<br>p <sup>d</sup> Gen' Traditur in<br>Wall super Cepi Corp'<br>Johanni Denn de Hack-<br>ney in Comd p <sup>d</sup> Gen'<br>Rich Fen de Highgate<br>in Comd p <sup>d</sup> Gen'<br><br>Capl & Cognit . . .<br>die . . . 1699. coram ad lectam<br>A. B. u <sup>n</sup> Com-<br>missionar', &c. Richardi Doe. |
|------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

And

And in taking of the Recognizances, K.'s Bench: these Words must be used, (viz.)

You (calling the Bail by their Names) do jointly and severally undertake, that if the Defendant [naming his Name] shall be condemned in this Action at the Suit of the Plaintiff [naming his Name] he shall satisfy the Costs and Condemnation, or render himself into the Custody of the Marshal of the Marshalsea of the Court of King's Bench, or you will pay the Costs and Condemnation for him.

Words to be used.

And if any Bail be given upon any Action or Actions removed out of any inferior Court by Writ of *Habeas Corpus*, and returnable in the Court of King's Bench, then *Cepi Corp<sup>r</sup>.* instead of writing *super Cepi Corpus*, as *Hab' Corp<sup>r</sup>.* before, you must write *sup h<sup>e</sup>d de Hab Corp<sup>r</sup>*; and instead of writing the Plaintiff's Name (as aforesaid) you must write, *ad sectam Quer<sup>r</sup> in Querel*; and the Cognizors must undertake that if the Defendant be condemned at the Suit of the Plaintiff or Plaintiffs in the Plaintiff, that he shall satisfy the Costs and Condemnation, or render his Body; &c. as aforesaid.

Secondly, It is ordered, That the Affidavit for the due taking of every such Bail shall be made either before some Judge of the King's Bench, to whom the Bail shall be transmitted, or before some Person who shall have Power to take Affidavits in Matters and Causes depending in the said Court.

Thirdly, it is ordered, That all Bails taken by any Commissioner within the Distance of Forty Miles from the Cities of

K.<sup>s</sup> Bench. London and Westminster, shall be transmitted to the Lord Chief Justice of the Court of Bails to be transmitted King's Bench, or to one of the Justices of in 8 Days, if the said Court, within Eight Days after the taking thereof, and all Bails within Forty Miles, in 15 taken by any Commissioner above the if above 40. Distance of Forty Miles from the said Cities of London and Westminster, shall be transmitted within Fifteen Days after the Taking thereof, unless all the said Justices shall be in their Circuits, and then as soon as any one of them shall be returned to his Chamber in one of the Serjeants Inns.

Book to be kept.

Fourthly, Also every Commissioner is to have a Book kept purposely for entring the Names of the Defendant and his Bail, and of the Plaintiff, as it is in the Bail-piece, and the Time of taking thereof, and the Name of him by whom such Bail shall be transmitted; and also the Name of the Attorney for the Defendant. And,

Plaintiff to except against the Bail in 20 Days.

Fifthly, It is farther ordered, That the Plaintiff's Attorney shall be at Liberty to repair to the Commissioners Book for the Names of the Bail, to the end that they may enquire of the Sufficiency of them; and if they are found insufficient, they may except against them within 20 Days after the said Bail is transmitted, and Notice to the Plaintiff or his Attorney, of the taking thereof: And in that Case the Defendant must either put in better Bail, or the Cognizors of such Bails must justify themselves in open Court, either by Affidavit taken before such Commissioner that took the said Bail, or by Oath made in Court, or before one of the Judges of the said Court.

G. Eyre. W. Dolbin. J. Holt.

Three Sorts of Bail pieces taken before  
Commissioners are as follows.

The first Bail-piece upon *Cepi Corpus.*

Verks' s. A. B. de R. in Comū pō Gen.

Tradit' in Ballium sup  
Cepi Corp C. D. de  
..... in Com D.  
Gen & E. F. de ...  
in Com ... Gen

Harvey  
Accord }

ad sedam  
R. R.

Capt' & cogn' 12 die  
Bail, Anno Dom' }  
1726. de bene esse  
coram me J. S.  
vnd Commissionat.

Stamp dou-  
ble 12 d.

K.'s Bench.

The Second Bail upon a *Habeas Corpus*  
thus :

Being cut in Verks s. A. B. de K. in Comd pō Gen  
Shape as the  
foregoing.

Tradit' in Wallum sup  
brevi de hab Corp  
C. D. de . . . . in  
Comd . . . Gen E. F.  
de .. in Comd .. Gen

Parbey }  
Attorū }

Ad lectam  
Quer in queret.

Capt' & cogn'd 12 die  
Maii, Anno Dom' }  
Double 12 d. 1726. de bene esse  
Stamp. cooram me J. S. un }  
Commissionar.

The third Sort is upon a *Certiorari*, thus:

Berks' S. A. B. de R. in Com<sup>d</sup> p<sup>d</sup> Gen<sup>d</sup>. Cut in Shape  
as the First.

Tradit<sup>r</sup> in Ballum sup  
b<sup>r</sup>e de Certiorari, C. M.  
de . . . in Com<sup>d</sup> p<sup>d</sup> Gen<sup>d</sup>  
& E. F. de . . . in Com<sup>d</sup>  
p<sup>d</sup> Gen<sup>d</sup>.

Harvey }  
Attorn<sup>d</sup> }

ad sectam  
Quer<sup>r</sup> in querel.

Capt' & cogn<sup>d</sup> 12 die }  
Maii, Anno Dom<sup>m</sup> }  
1726. coram me }  
A. B. vñ. Com- }  
missionar.

Double 12 d.  
Stamp.

The Three last Bail-pieces must be carried to be filed at the Judge's Chamber, with an Affidavit of the due taking, to be made by one that was present.

The Form whereof follows.:

K.'s Bench.

*In Banco Regis.* } *Intr. R. R. quer<sup>3</sup> & A. B. Def.*

**T**. *B. of D. in the County of E. Gent.*  
*maketh Oath, That the Recogni-*  
*zance of Bail or Bail-piece hereto annex-*  
*ed, was duly acknowledged by, &c. (na-*  
*ming the Bail) before J. S. Esq; the Com-*  
*missioner who took the same in this Depo-*  
*nent's Presence the 12th of May last past.*

*Jurat<sup>3</sup> s Junii*  
*1726. Coram*

*T. B.*

This Affidavit may be sworn before the Commissioner, and sent up; or if the Party be above at Term, then before a Judge of that Court.

*Of delivering Declarations.*

**I**F the Plaintiff's Attorney does not deliver a Declaration to the Defendant or his Attorney, either the Term the Writ is returnable of, or some time in the succeeding Term, the Action is discharged, and the Plaintiff may be *non Prost<sup>d</sup>*; for the Defendant is not obliged afterwards to accept of a Declaration.

And observe, That by a Rule of Court the Defendant's Attorney is to pay the Plaintiff's Attorney for a Copy of the Declas

## Of Bail.

77

Declaration when delivered at 4 d. per. K.'s Bench.  
Sheet.

A Declaration may be delivered *de bene esse*, till Bail above is put in and justified.

Note, That in Case you cannot find the Defendant's Attorney to deliver him the Declaration (or if he refuses to pay for it) you may leave it in the Office with the Clerk of the Narr's, and proceed thereon against the Defendant; but you must give the Defendant's\* Attorney Notice of \* If you can't find the Declaration, and the Proceedings so soon as you can find him. Attorney

If a Declaration be delivered after the Essoin-day of *Michaelmas - Term*, and before *Craetinum Animarum*, or after the Essoin-day of *Easter - Term* and before *Mensem Pasch.* and Rules are given to plead, the Defendant must plead to enter, that is, must plead 2 Days before the Essoin-day of the succeeding Term.

But if a Declaration is delivered against a Prifoner in the King's Bench, he is obliged to plead as soon as the Rules are out.

See the Rules for delivering Declarations, and declaring against Prisoners at the End of the Declarations.

If Bail be put in upon *Habeas Corpus* returnable immediate; if it be in *Hillary* or *Trinity Term*, and the Declaration be delivered 8 Days before the End of the Term, then the Defendant must plead to enter.

But if it be in *Michaelmas-Term*, and the Declaration be delivered before *Craetinum Animarum*, or in *Easter-Term* before *Mensem*

K.'s Bench. *Mensem Paschi*, then the Defendant must plead to try the same Term.

If one come in upon *Habeas Corpus* and Bail being given thereon, and the Plaintiff does not declare against him in Two Terms including the Term he was brought in, the Action and the Bail are discharged, and the Plaintiff *Non Prost' d* with Costs.

Next we will see how to make up Issues, because it doth sooner happen to a young Clerk than other Business.

See Declarations towards the End of K.'s Bench.

For we will suppose that your young Clerk shall be little employed in drawing Declarations, except upon Bond or in *Ejectment*, and the like; of which there are some Precedents after in this Treatise.

But he may have much to do in making up Issues, ingrossing Records, and the like; and therefore we will hasten to them.

### Of Memorandams and Issues.

**S**UPPOSE you have an Issue to make up in *Hillary-Term*, from a Declaration in *Michaelmas* [or some other preceding] *Term*, — You write in Court-Hand at the Top of your first Sheet of Paper thus, according to the Term.

De Termino Sed Villarum  
Anno Und Dni Georgii nunc  
Regis Magne Britann, &c. }  
duodecimo.

Ventriss.

Hōmis s. **M**Emorandum quod alias scilicet  
 Terminū Sancti Michis [sic] Memorandum  
 Trinū Pasche, &c. as the Declaration is of another  
 of ult' plit' coram Dño Rege apud Westm Term.  
 ven A. B. (naming the Plaintiff in the  
 Declaration) p C. D. (naming the Plain-  
 tiff's Attorney) Attornū suū, Et protulit  
 hic in Cur' dict' Dnd Regis tunc ibidem  
 quandam Villam suam versus E. F. (na-  
 ming the Defendant, if an alias dict' insert  
 it) in custod' Mar', &c. de plito \* Debi  
 [Transf', Trans' & insult', Transg' super  
 Calum, Convention' fract', &c. as the Case  
 is] Et sunt pleg' de prosequend' scilicet Iohannes  
 Doe & Richardus Roe, que quidem Villa  
 sequitur in hec verba s. Hōmis s. A. B. que-  
 ritur de E. F. in custod' Mar' Maresc' Dnd  
 Regis coram ipso Rege existent' de plito qd  
 reddat ei, &c. (verbatim to the End of the  
 Declaration) Et inde producit Sēctam, &c.

\* Note, When your Declaration is de  
 plito qd reddat, then say in your Me-  
 morandum or Issue, de plito Debi;  
 when pro eo videbit, then say de plito  
 tñgr sup Calum; when in Trespass say,  
 de plito transg'; when in Ejectment See the  
 say, de plito Transg' & Ejectione fir- Narrs' after.  
 me; when in Covenant say, de plito  
 Convention' Fract'; when in Assault  
 and Battery say, de plito Transg' &  
 Insult', &c.

Then beginning a new Line after the  
 End of your Declaration, you must  
 enter your Imparlane thus:

K.'s Bench. *Et modo ad hunc diem scilicet diem Mat-  
sis pror' post Octab Scti Hillarii [the  
Imparlance first Day of the Term the Issue is en-  
tered] isto eod Termio usque*

*But if the Declaration  
was delivered of Michael-  
emas-Term, the Plea of  
Hillary-Term, and you do  
not deliver the Issue be-  
fore Trinity-Term, then  
you make it an Issue of  
Trinity-Term, and say &  
modo ad hunc diem, scilicet,  
the first Day of Trinity-  
Term, and so on.*

*Note, If the Defendant's  
Attorney cannot be found,  
you may enter your gene-  
ral Pleas in a Book in the  
Office, which runs alpha-  
betically, beginning with  
the Defendant's Name  
thus:*

*B. ads' A. Non Assumpit,  
per Pleadwell; (you pay  
2 d. for it.)*

*Or thus:*

*A. ads' B. supradict' script'  
Obl' non est factum, per  
Pleadwell. (And so of the  
like.)*

\* If in London or Middle-  
sex it must be some small  
Time before the Trial,  
but the Clerk of the Ni-  
ff Prius will insert the Day at the examining of the Record.

Note, if the Defendant pleads Not guilty K.'s Bench: in Trespass, then after the Words (defend ~~w~~  
vim & injur<sup>r</sup> quando, &c.) write, Et dic<sup>e</sup> qd ipse non est inde Culpabilis Et de hoc pnd se sup P'riam, &c. as above.

Et dic<sup>e</sup> qd ipse in nullo est Cul de premissis supius ei impec<sup>t</sup> put pdic<sup>r</sup> A. superiorus versus eum querit Et de hoc pnd se sup P'riam, &c. (as before.)

If the Defendant pleads Non Assump<sup>r</sup> sit, then after the Words quando, &c. Et sit. die qd ipse non Assumpsit super se modo & forma put idem A. B. supius suis cum queritur Et de hoc pnd se sup P'riam, &c. as above.

Quando, &c. Et dicit qd ipse de debo pd  
virtute script' obl ps ouari non debet to a Bond.  
quia die qd script' Obl pd Non est fac-  
tum sudi Et de hoc pnd se sup P'riam  
Et po A. filit Jo<sup>r</sup> (&c. ut in al.)

Thus is your Issue made up with a Mes- See more of  
morandum when the Declaration is of Issues after  
another Term. the Declara-  
tions.

But many Times the Issue is joined the  
same Term the Declaration is of, and  
then you must enter it thus:

Sonis<sup>r</sup> II. Memorandum qd die Lune pr<sup>r</sup> Memorandum  
post Octab Scti Hillarii, of the same  
[The first Day of that Term the Declara- Term.  
tion is of] isto eob Termino coram Dno  
Rege apud Westm vni (the Plaintiff) p  
A. B. Accord sudi Et prulic hic in Cur  
G dict

K.'s Bench. dia' Domini Regis tunc ibi quondam Willam suam filius (the Defendant) in custodie Marre, &c. de plito, (sc.) as in the foregoing Memorandum of another Term.

This is the usual Way, but it seems more proper to say after Attorni sui Et perficit hic in Curia dict' Domini Regis nunc hic quondam Willam suam, (sc.)

*Note*, If the Declaration be above Four Terms standing, then you say — Memorandum quod ait scilicet Termio, (sc.) Anno Regni Domini Regis nunc (naming the Term and Year) coram, &c.

Plea.

*Note*, The Memorandum the same Term with the Declaration hath no Imparlane, but after the Declaration you must enter the Plea thus, (beginning a new Line) Et predictus (the Defendant) per A. B. Attorni sui vobis & defendit vim & injurias quando, &c. & dicit quod ipse non Assumpsit — and so on as it is in another which hath no Imparlane.

You should enter your Issue before you seal your Record; however before the next Term: (If your Trial be after the Term, or at the Assizes, it is entered upon a Roll out of the Office:) Vide Instructions to enter up Judgments. [See after to give a Rule to enter the Issue, fol.]

Having

Having made up your Issue, the next Thing K.'s Bench. is to ingross it as a Record for a Trial; which is to be done in a Press or Presses Record. of Parchment given out from the ~~Pisi~~<sup>Press</sup> Office for that Purpose.

Note, You must write but on one Side Double half of the Press; and if one Press will not Crown serve, you must take another, beginning Stamp each near the Top, only leaving a Bit to sew Pres. it to the other.

Rule your Parchment near the Top, and *Placita*. make a Margent of about three Parts of an Inch, and then write on the first, second, or third upper Lines in great Court-Hand, thus;

Plata coram Dño Rege apud Westm de \*\* The first Termio Sec Trinitatis Anno Reg. Dni Placita must Geo. Reg' Magni Britan', &c. duobusmo be the same Term as the Issue is of.

Then thus in small Court-Hand.

Sons' s. **M**Emorandum quod als scilicet \* If the De- Termio Pasch ult' preficit' fendant be in coram Dño Rege apud Westm venit A. B. the County- p C. D. Attord luid Et pculit hic in Cur Prison, say, dict' Dni Regis tunc ibm quandam Willam In Custod' Vic' Com' D. ex- suam versus E. F. \* and so on to the End isten' virtut' of your Issue verbatim; and after that brevis Dni Regis de La- must write another Placita in great Court titat e Cur' Hand, as above, viz. ipsius Dni Reg. coram ip-

so Reg' apud Westm' in Com' Midd' emanant' de placito, &c. both in the Memorand' and Declaration: The same in Judgment by Nil Dic', &c. [See after.]

K.'s Bench. *Plita coram Dño Rege apud Westm de*  
*\* Termio scđ Trin Anno Reg Dñi*  
*Geor, nunc Regis Vaghe Britan, &c. 12°.*

\* The same  
Term as the  
Cause is to  
be Tried.

And then beginning a new Line, enter a  
Jurata as follows, in small Court-Hand.

But if by O-  
riginal usque  
a die Pascha  
in xv im dies  
ubicunq; &c.

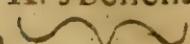
\* Mercur' 14  
die Martii a-  
pud C. in Com'

Somis, s. JUR int A. B. p Attorni sui  
Quer & E. F. de plito transf  
[as the Action is] ponit in respectu coram  
Dño Rege apud Westm usq; diem [the first  
of the next Term,] pr' post — Nisi Ju-  
stie Dñi Regis ad Assias in Com' predia'  
capiend' assignd prius die — [the \* Day the  
Assizes are held] apud — [the Place where  
they are held] per formam Statut, &c.  
ven p defec' Jur, &c. Ideo Vic' heat corpo-  
ra, &c. Idem dies dat' est partib' predia'  
ibm, &c. Et sciendum est quod bre dict' Dñi  
Regis inde — die [the Day of the Re-  
turn of the Venire being the Teste of the  
Distingas, and last Day of that Term  
the Record is made] isto eod' Termio co-  
ram Domino Rege apud Westm deliberat' de  
Recordo Deputat Vic' Com' pō in forma Ju-  
ris exequend' pīlo incumbend, &c.

If by Orig-  
inal in Oct'  
Pur' beat'  
Mariæ Vir-  
gin.

Entry of a Writ delivered to the Sheriff's  
Deputy in Court. (*Vide Dalt. Sher.*  
*fol. 456.*)

**M**emozandum quod Justie Domini Re-  
gis hic (tali die) isto eod' Termio des-  
liberaver I. D. Deputat' Vic' Com' predict'  
quoddam bre Domini Regis nunc clum eid  
Vic' direct in forma Juris exequend, quod  
quidm breve idem Deputat hic in Cur' ape-  
ruit. Cujus quidem bris tenor sequitur in  
hec verba Georgius, &c. Thus

K.'s Bench.  


Thus is your Record ready for Sealing,  
 and you may cut off the remaining  
 Parchment within an Inch from the  
 last Line.

But note, If your Cause is to be tried in  
*London*, your Jurata must be after this  
 Manner:

**Lond.** sc. **JUR' int A. B. per Actoñ suu Jurata in**  
**Jurat & C. D. de p'ito trans-**  
**gress' [as the Action is] ponit in respectu**  
**cozam Domino Rege apud Westm usque**  
**diem [the very next Day after the Sittings,**  
**if in Term; if after Term, then usq the**  
**first Day of the next Term, as] Mercurij**  
**p' post tres septenas Sei Michis. Nisi**  
**dilectus & fidel Domini Regis Roberto May-**  
**mond Mil Capital Justie Domini Regis ad**  
**plita in Cur' ipsius Domini Regis cozam ip-**  
**so Rege tenend assign' [if in Term say]**  
**prius die . . . p' post . . . [if after Term**  
**say] prius die [the Day of Sittings] Iovis**  
**decimo tertio die Junii apud Guildhall Lon-**  
**doni p formam Statut, &c. ven p defectu**  
**Jur', &c. Ideo vix heant corpora, &c. Ideo**  
**dies dat est partibus p ibm, &c.**

**Note, The Et sciendum est quod hie, &c.**  
 it is not used for *London* as for the  
 County.

See after for some special *Jurata's* at  
 the End of the Issues in the King's Bench.

~~~~~  
Jurata, Venire, Distringas.Jurata in
Middlesex.

IF your Action be in Middlesex, then say,
Nisi dilectus & fidelis Domini Regis Robertus Raymondus filius (sc.) apud Westm' p[ro]p[ter]a in Comitatu Hidc in magna Aula Plitorum ibidem p[er] formam Statut[us], sc., (as before) but instead of heant write heat.

In Order to a Trial to be had upon this Issue and Record, you must also make out a *Venire facias*, the Form whereof is this:

Venire facias.

Georgius Dei Grā Magne Britāniae Francie & Hibernie Rex, Fidei Defensor, &c. Vice Honoris Sactem Precipimus tibi quod Venire fac etiam nobis apud Westm' die Mercurii proximi post tres septimanas Sancte Trinitatis [the last Day of the Term Issue is made up] duodecim libos & legales hoies de * corpore Comitatu [by a late Act of Parliament] quorum quilibet habeat decem Libr[um] Terr[ae] Tectorum vel reddit[us] per annum ad minus p[er] quos rei veritas melius sciri poterit & qui nec A. B. Quer[untur] nec C. D. aliqua affinitate attin- gunt ad faciend[us] quandam Juras

* If the Cause be in London, then make the Writ, *de corpore Comitatu vic'*, &c. unless it be otherwise laid: And Q. if it ought not to be returnable the Day of the Sittings, if in Term-Time.

ad Patrie int[er] partes p[ro]p[ter]a de p[ro]lato transgre[dit] [as the Action is] Quia tam idem C. D. [the Defendant] quam p[ro]p[ter]a A. B. [the Plaintiff] int[er]

in quo^s inde Contentio est posuer^e se inde in K.^{'s} Bench.
 Jur^r il^k & heas ibi tunc no^{ta} Jur illius & hoc
 b^re T. Roberto Raymond Mil apud Westm^m
 10 die Junii [the first Day of the Term]
 Anno Reg^r nostri duodecimo.

Ventrⁱs.

This Form was settled by 35 H. 8. c. 26,
 and by 4 & 5 Will. c. 24. each Juror to
 have 10 l. per Ann. and a Tales 5 l. per Ann.

Note, That by the Rules of the Court, See after,
 if the Plaintiff will not try his Issue after
 it is joined in such Time as he ought by
 the Course of the Court: In such Case
 the Defendant may make out the *Venire* by
Proviso, if he will, that he may free him-
 self if he can, of the Danger and Trouble
 he may be subject to by the Depending of
 the Action against him, and to recover
 his Costs for his unjust Vexation. In which
 Case the *Venire* is to run thus; after you
 come to in Jur^r il^k, say, *Proviso semper Proviso.*
 qd si duo b^rev' inde tibi venerint unid eozund See after.
 tantum retrnd & exequaris. Et heas, &c.

And it is to be observed, That in Acti Stat. 7 & 8
 ons laid in London or Middlesex, the Defen- W. 3. c. 32.
 dant ought not to give the Plaintiff a Rule directs the
 to enter his Issues, or to try the Cause by Trial per Pro-
Proviso, the same Term Issue is joined, vido & form.
 unless the Plaintiff hath first given the De-
 fendant Notice of a Trial that Term, and
 hath made Default: And that if the Action
 lie in the Country, the Defendant shall give
 the Plaintiff a Rule to enter his Issue, as
 of the same Term Issue is joined.

K.'s Bench. If the Issue has been delivered, and not tried, (it is said) If the Plaintiff intend to desist, 'tis not convenient to enter it on the Roll; for if it be not carried in, the Defendant, before he can carry it down by *Proviso*, must give the Plaintiff a Rule to bring in the Record; after which the Plaintiff hath the next Term to try it, before the Defendant can carry it down by *Proviso*; but if it be entred, and not tried, the Defendant may carry it down next Sessions after it is in the Office.

Again; If the Defendant give the Plaintiff a Rule to enter his Issue, (the Action being laid in *London* or *Middlesex*) the Plaintiff must bring his Record into the Office within Four Days after Notice of the Rule: And if the Action be laid in the Country, he must bring it in before the Continuance-Day of that Term, or in Default thereof a Nonsuit may be signed and entred, and Costs will be allowed the Defendant.

The Manner of entring a Rule for the Plaintiff to enter his Issue is thus:

THE Defendant's Attorney carries the Copy of the Issue to the Master of the Office, and desires him to give a Rule to enter the Issue, and he will write in the Margent of the Copy of the Issue, what Day he thinks fit; (for Example) *Mercur post Octab Trin ad replicand & intrand exit;* Then carry this Rule to the Clerk of the Rules, and he will enter it, and

write under the Rule Intr'. Make a Co-K.'s Bench
py of the Issue at the same Time, and if he do not enter the Issue by the Day limited, the Master will sign Judgment and tax Costs; you must enter the Issue upon a Roll of the same Term, and add & super hoc idem (the Defendant) per quod pō (the Plaintiff) ad plicum ipius (the Defendant) replicaret & super inde p Cur Dom' Regis nunc hic dies inde dat est prefat (the Plaintiff) eozam Dño Rege usque, sc. ad plicum pōia' replicand' idem dies dat est prefat (the Defendant) and so enter the Continuance to the Term when the Rule is given, then say, ad quem diem hic veni pō (the Defendant) per Attorn suum predict Et dictum est eidem (the Plaintiff) p Cur dicti Dm Regis nunc hic quod ipse replicaret ad plicum pred' & intraret erit' in plito predict die, sc. Isto eodem Teritio piclo incumbet, sc. ad quem diem eozam Dño Rege hic veni predict (the Defendant) per Attorn suum pō Et pō (the Plaintiff) licet Solempnit Exad' non veni nec ad plicum pō (the Defendant) replicavit nec est h̄e suum pdict versus eundem (the Defendant) ulterius plectur Iō cōns est quod pdict' (the Plaintiff) nihil capiat p h̄e suum predict sed quod ipse & pleq' sui de ps scift Johannes Doe & Richardus Roe sint in M̄ia Et pred (the Defendant) eat inde sine die, sc. Et ulterius cōns est quod pred (the Defendant) recuperat versus prefat' (the Plaintiff)

p mis & custag' suis per ipsum circa Defencon suā in hac parte sus-

tent

K.'s Bench. tenet eidem (the Defendant) per cur dicti
 Dñi Regis nunc hic iurta formam Statut in
 humori Casu inde nuper edic & pvis' adju-
 dicat Et Idem (the Defendant) heat inde
 Executionem, &c.

Q. Of the Continuance-Day.

Upon the Writ of Venire being sealed,
 the Sheriff will return a Jury in a
 Panel annexed to the Writ.

Upon which Panel, you make out a
 Distringas Jurator after this Manner:

Distringas
 Juror.

You only
 Seal this
 Writ.

Gorgius Dei Grā Magiū Britanī Frānc
 & Hibernie Rex fidei Defensor, &c.
 Uic Homīs saltem Precipimus tibi quod
 Distringas A. B. C. D. E. F. &c. (na-
 ming all the Jurors, with their Additions and
 Places of Abode, as they are set down in
 the Panel) Jur sum in Cur' nra coram no-
 bis int A. B. Quer (naming the Plain-
 tiff) & C. D. Defend. (naming the De-
 fendant) per omnes Terras & Catalla sua
 in baillia sua ita quod nec ipsi nec aliquis p-
 iplos ad ea manū apponā donec aliud a nobis
 inde hueris pcept Et qd de exit eozund nobis
 respons ita quod heas corpora eoq coram
 nobis apud Westm die — pr post tres
 septimanas Sed Michis (the first Day of
 the next Term) * vel coram Justic nos-

If your Distr' stris ad Aliax in Com tuo capiend assign
 be in London,
 you say, Vel

coram dilect & fidel nro R. Raymond Mil Capit Justic nro ad pla-
 cita in Cur' nostra coram nobis tenend assign si prius die, the Day after
 the Sittings if in Term, but if the Sittings are after Term, then
 the first Day of the next Term, apud Guildhall London, per formam
 &c. If the Distrin' be in Midd' then you must say, Coram dilect &
 fidel nostro R. Raymond, &c. apud Westm' prad. in Magna Aula
 placitorum ibidem per form Stat. &c.

si prius die . . . (the Day that the Assi-K.'s Bench.
zes are held on) apud . . . (the Place where ~~they~~
they are held) in Com^m tuo pred^p
formam Statuti in humod Casu nuper edit
& provis^r ven^d ad faciens quandam Juratam
patrie int^r partes p^o de placito transgr^e (as
the Action is) Et ad audiend^r Judic^r sui de
plur^m defact^r Et heas ibi tunc nomina Jur^r
illius & hoc breve, Teste R. Raymond Mil^r
apud Westm^m . . . die . . . last Day of the
Term) Anno r^m nd^r decimo t^rio,

Ventris.

You must next Seal this *Distringas*, and
get the Sheriff to return it; and if there
be an Occasion for a *Subpæna* for the
Witness (as commonly there is) you
must make it as afterwards.

Note, That by an Act of 7 & 8 Guliel-
mi tertii Regis, for the Ease of Jurors, and
better regulating of Juries, it is enacted,

' That if the Plaintiff shall not proceed to
' Trial of the Issue at the first Assizes after
' the Teste of the Writ of Habeas Corpora
' or Distringas, with a Miss prius; That
' then, and in all such Cases (other than
' where Views by Jurors shall be directed)
' the Plaintiff, or Demandant, whenever he
' shall think fit to try the said Issue at any
' other Assizes, shall sue forth and pro-
' ceute a new Writ of Venire facias directed
' to the Sheriff in this Form.

K.'s Bench. Quod de novo Venire facias coram, (sc.) duodecim libbos & legles hoies de Corpore Venire de novo. Cum cui quoque quilibet habeat decem libras terrae tentorum vel redditus per annum ad minus per quos (sc.) Et qui nec (sc.) after the ancient Manner ; ' That is to say, the Writ is to be in the same Form as the first, only adding the Words De novo.

Which Writ being duly returned and filed a Writ of Habeas corpora or Distringas, with a nisi prius, shall issue thereupon for the ancient Fees, as in the Case of a Pluries, Habeas corpora or Distringas, with a nisi prius : Upon which the Plaintiff or Demandant shall and may proceed to Trial, as if no former Writ of Venire facias had been prosecuted or filed in that Cause ; and so toties quoties as the Case shall require.

And if any Defendant or Tenant shall be minded to bring the Issue to Trial by Proviso, (when by Course he may) he may, of the issuable Term next preceding such intended Trial to be had at the next Assizes, sue a new Venire facias to the Sheriff, in Form aforesaid, by Proviso, and prosecute the same by Writ of Habeas corpora or Distringas, with a nisi prius, as though there had not been any former Venire facias sued out or returned in that Cause ; and so toties quoties, as the Matter shall require.

But you must give notice you intend to try the Cause by Proviso.

And the Rule is, when you do not try the Cause the same Sitting in London or Middlesex

~~lejex~~, and within the Term, you always K.'s Bench seal the Record *de novo*, unless it be at the Sittings after Term, and then the same Record and Jury serve, unless a Juror be withdrawn, which is often done upon a Reference or View. The Sittings after Term being accounted but one Day in Law though they are many.

Note, That in Prohibition, it's said, Either Party may carry down the Record ; so that it may happen that Two be carried at one Time ; *Domina Regina v. Sir Jac. Banks*, about *Trin. 3. Ann. Per Cur'*, That in Civil Actions the Defendant cannot carry down a Cause to Trial by *Proviso* 'till after Default in the Plaintiff, except in some Special Cases, as in *Quare Impedit*, Replevin and Prohibition, to have a Writ to the Bishop, Return, or Consultation ; and that there cannot be a Trial by *Proviso* in the King's Case, because there can be no Laches in the King : And the Court directed it for a Rule, That the Defendant should never carry an Indictment, removed hither by the Prosecutor, to Trial without Leave of the Court.

This Act also provides, that Jurors to *7 & 8 W. 3.* serve upon the Tales, shall be Freeholders, or Copy-holders of the County, and returned upon some other Panel to serve at the said Assizes and attending in Court, and may be challenged by Plaintiff or Defendant, Demandant or Tenant, as if they had been impanelled upon a *Venire facias* to try the Issue.

Note,

View by Jurors.

K.^r.s Bench. Note, By the A^t, for Amendment of
 the Law, reciting, That whereas great
 Delays do frequently happen in Trials by
 reason of Challenges to the Arrays of Pa-
 nels of Jurors, and the Polls, for the Want
 of Hundredsors ; for Prevention whereof,
 'tis enacted, That every *Venire facias* for
 the Trial of any Issue in any Action or Suit
 in any of his Majesty's Courts of Record
 at *Westminster*, shall be awarded for the
 Body of the proper County where such
 Issue is triable. But this A^t is not to ex-
 tend to Appeals, Indictments, Present-
 ments of Felony, Murder, or Treason, nor
 to Penal Statutes.

View by Jurors.

Also it is enacted, That when a View
 of Messuages, Lands or Places in
 Question, shall be thought necessary by the
 Court, for the Jurors better understanding
 the Evidences that will be given upon the
 Trials of such Issues, in every such Case
 the respective Courts, in which such Actions
 shall be depending, may order special
 Writs of *Distringas*, or *Habeas corpus* to
 issue ; by which the Sheriff, or such other
 Officer to whom the said Writs shall be di-
 rected, shall be commanded to have Six
 out of the first Twelve of the Jurors named
 in such Writs, or some great Number of
 them, at the Place in Question, some con-
 venient Time before the Trial, who then
 and there shall have the Matters in Questi-
 on

on shewn to them by Two Persons in the K.'s Bench. said Writs named, to be appointed by the ~~the~~ Court : And the said Sheriff or other Officer, who is to execute the said Writs, shall by a special Return upon the same, certify that the View hath been had according to the Command of the said Writ.

*Distringas on the Statute 5 Ann. for a View
by Jurors.*

Georgius (&c.) Vic' S. Salutem pre-
cipimus tibi quod Distringas W. N.
de . . . (and so recite the whole Panel)
Iur' summois in Cur' nostra coram nob' int'
A. B. Quer' & C. D. Del' per omnes ter-
ras & catalla sua in balliva tua ita quod
nec ipsi nec aliquis p' ipsos ad ea manum
appo. donec aliud a nob' inde hueris p'cepit
Et quod de erit eozundem nobis respons
ita quod heas corpora eoz coram nob' a-
pud Westm' die . . . p' post
vel coram Justic' nostris ad Assizas in
Com' tuo capiendo Assign' si prius die
. . . . die . . . apud H. in Com' p' p
formam Statut in hujusmodi casu inde e-
dit & p'vis' venerint ad faciens quandam
Iur' patrie int' partes p' de pl'it' transge
& ad audiend' inde Judic' suum de pl'it'
defal' Et interim secund' formam Statut
in hujusmodi casu inde ne p' edit et p'vis'
p'cipimus tibi quod heas lex de primis
duodecim Iur' p' vel aliquem major nu-
mex eozundem ad locum in questione
sup . . . diem . . . p' sequend' qui ad-
iunc

K.'s Bench. tunc habent vistū ejusdem loci in p[re]sencia
 E. F. ex Parte Quer & G. H. ex parte
 Def' appunctual p[ro] Cur[ia] nostram coram
 nobis ostendō locum p[ro]p[ter]a Jur[is] p[ro]p[ter]a Et qualit[er]
 hoc p[re]cept[um] nostrum fueris Crecut nob[is] a-
 pud Westm' ad p[ro]f[ect]ū diem Justic[ie] nostris
 ad Assizas p[ro]p[ter]a recordū fac hoc breve no-
 strum nob[is] remittend[us] Teste Robto Ray-
 mond Mil apud Westm' ... die ...
 Anno Regni nostri

Ventris.

A Subpœna for Witnesses.

But Four
Names in
one Subpœ-
na.

Georgius Dei gratia magne Britannie
 Franc & Hibernie Rex fidei De-
 fensor (sc.) A. B. C. D. E. & G. H.
 (naming your Witnesses) salutem Preci-
 pimus vobis & cuilibet v[er]m' firmiter in-
 jungend[us] Quod omnibus & singulis negotiis
 & Excusationibus quibuscumque cessand[us] in
 prop[ri]t[er] personā vestris stis & quilibet v[er]m'
 sit coram Justic[ie] nostris ad
 assisas * in Com' Sonis
 capiend[us] assignd[us] die
 (the Day the Assizes are
 held) pror[og] sequend[us]
 (the Place where they are
 held) in Com' p[ro]p[ter] ad testis-
 ficand[us] ea omnia & singula que
 sciveritis vel aliquis vestrum
 sciverit in quadam Actione in
 Cur[ia] nra coram nobis sam-
 pendend[us] indeterminat[us] int A.
 B. Quer & C.D. Def. de pli-
 to transgr[atis] (as the Action

* If in London, then coram
 fidel[er] & dilect[er] nostro R. R. Mil
 Capitali Justic. as before,
 apud Guildhall, London, &c.

If in Middlesex, coram
 dilect[er] the Chief Justice, as
 before, apud Westm. in Mag-
 na Aula placitorum ibidem,
 &c.

is) & ad diem illi p[ro]p[ter] Patrie trian-



Et hoc nullatenus omittatis nec aliquis K.'s Bench.
vrm omittat Sub pena cuiuslibet vrm
centum Libzarum Teste Roberto Raymond
Mil apud Westm 12 die Junii Anno regis
ni nostri septimo.

Ventris.

See after the Form of a *Subpæna ad Testificand'* upon a Writ of Enquiry of Damages.

Upon this *Subpæna* there are Tickets to be filed up or made after this Manner.

Tickets for Witnesses.

Mr. A. B.

BY Virtue of a Writ of *Subpæna* to you directed, and herewith shewed unto * For London you, you are personally to be and appear or Mid. then * before his Majesty's Justices of Assize on before Sir R. — next, being the — Day of — at R. Kt. &c. — of the Clock in the — noon of the same Day, at the Court then to be holden at — in the County of — to testifie the Truth according to your Knowledge, in a certain Cause now depending, and then and there to be tried between A. B. Plaintiff and C. D. Defendant, in a Plea of — on the Part of — and hereof you are not to fail, on Pain of One hundred Pounds. Dated the — Day of — in the thirteenth Year of the Reign of our Sovereign Lord George, by the Grace of God, of Great Britain, France, and Ireland, King, Defender of the Faith, &c. Annoq; Dom. 1726.

H

Of

Of Sealing Records.

NO**T**E, You must get your Record sealed at the *Nisi prius* by the *Custos Brevia*, who (in Truth) ought to make up your Record, and keeps Clerks for that Purpose, and you are to pay him for it: But for Dispatch, the Clerk or Attorney makes them up himself.

Notice of Trial.

You are also to give the Defendant's Attorney sufficient Notice of Trial in this Manner for *London* and *Middlesex*, Take Notice of Trial in this Cause to be on — Day of — at —

And Note, That there must be Eight Days Notice given to the Defendant's Attorney of any Trial in *London* and *Middlesex*, unless the Defendant live above Forty Miles from *London*, and then 'tis Fourteen Days.

But Eight Days Notice of Trial at Assizes 'tis said is good, let the Defendant live where he will; but not upon an old Issue.

If a Cause have continued Four Terms without any Prosecution before Issue joined, the Defendant is to have a Term's Notice to plead, &c. before Judgment can be entred by Default; If after Issue joined, a Term's Notice before Trial. Or if after Judgment obtained by Default, a Term's Notice of executing a Writ of Enquiry.

If Notice of Trial be given in London, K's Bench or Middlesex, and the Cause be not entred in the Lord Chief Justice's Book Two Days before the Day that it is to be tried, the Marshal shall enter a *Ne recipiatur* at *Ne Recipiatur* the Request of the Defendant or his Attorney. And there is a Rule made, that the Cause shall be entred Four Days before Trial.

And if the Plaintiff give Notice to the Defendant, that he will try his Cause on a certain Day within Term, altho' it be not tried at the Day appointed, yet he is not bound to give new Notice of Trial, but may try it the next sitting in the same Term, upon Two Days Notice; but if not tried the next sitting, then Notice to be given as at first.

If there are so many Causes to be tried *Vide Trial at* on the Day appointed, that the Cause can. *the Bar.* not be tried, and it is made a *Remanet*, the Plaintiff need not give new Notice, but the Defendant must attend till it can be tried.

Costs for not proceeding.

ALSO if the Plaintiff proceeds not to Trial after Notice, (and no Countermand) then the Defendant shall have Costs taxed by the Secondary, upon Affidavit of Attendance and Costs; which Affidavit may be in the Manner following,
viz.

K.'s Bench.

In Banco Regis.

Int A. B. Quer & C. D. Def.

You must have an Affidavit, setting forth the Charges of the Witnesses Expences, &c. to obtain your Cost.

R. G. maketh Oath, that he this Deponent, with the Defendant and Witnesses, attended at the last Assizes held at New-Sarum, for the County of Wilts, pursuant to a Notice of Trial formerly given by the Plaintiff's Attorney: And that then the Plaintiff did not proceed to Trial, neither did this Deponent receive or hear of any Countermand thereof.

Jur^r
die
coram

R. G.

J. V.

Or, if a Countermand was given at the Assizes say,

— — — Neither heard this Deponent of any Countermand thereof until Monday the 15th Day of July last, at Night, (&c.)

But Note, This is done upon a Motion in the King's Bench; but without Motion in the Common Pleas.

Note, At the Assizes, you get the Sheriff to return your *Distringas* of the Jury, and then you deliver the Record to the Judge's Marshal.

The next Thing is to draw the Brevi-K.'s Bench.ates for the Counsel, wherein great Knowledge and Experience is required; especially to know what Proof is requisite to be made, and sometimes what is Evidence, and what not; and to set forth the Case See some directions Post. summarily, and yet perspicuously and fully; and sometimes also what is supposed in Declaration will be objected by the other Side. But in Eject-ment. our Clerk will be no farther concerned therein at first, than to write them fairly over: So that we shall proceed how to enter up Judgment after Trial.

Postea.

WHEN the Trial is over, and the Court-Fees paid, if your Action be laid in *London* or *Middlesex*, the *Associa-*
stringas, and the *Panel* or Names of the Ju-
ry thereunto annexed, upon the Back of
which Panel he writes the Substance of
the Verdict, and the Costs given by the Ju-
ry, which you must take care to fix to your
Record, that it may not be lost; then get
the Record stamp'd with a new double 2*s.*
6*d.* Stamp, and scrape or rub the Back of
the Record with a *Pumice-Stone*, that it may
be fit to write on, and about Two Fingers
from the Top, with a Marget about Three
or Four Fingers broad, begin your *Postea*
long-ways, and not as you write your Re-
cord: The Substance and Meaning of which
Postea in *English*, is this, that afterwards the
Plaintiff and Defendant came by their At-

K's Bench. tornies before the Lord Chief Justice or
 Judge of the Assize, (as the Case is) and
 the Jury was sworn, &c. and then sets
 forth what Verdict they found, and what
 Costs they gave. The Form of this Postea
 followeth.

The Form of a Postea by Default, with Tales.

POstea die & loco infracontent' cozam R.
 Raymond' Mil Capital Justic infra-
 script' Associat' sibi I. I. Gen' (that is the
 Judge's Associat, who delivers you the
 Record) pro forma Statut', sc. Ven*d* infra-
 nominat' A. B. (viz. the Plaintiff) per
 Attornatum suum infracontent' & infra-
 nominat' C. D. (viz. the Defendant) licet
 Solemniter exact' non venit, sed defalt' fecit;
 Ideo Jur^r Jure illius unde infra sit mentio
 Capiatur Usus eum per defalt & Jur^r sure
 illius exact' quidam eoz videlicet E. F. G. H.
 reciting the Names of so many of the Ju-
 ry of the Principal Panel which is annex-
 ed to your *Distringas*; as you shall find there
 to have been sworn; for against every
 Man's Name that hath been sworn, there
 is writ Jr. or Jur^r or Jurat, then say, Ven*d*
 & in sur ill^r Jurat' existunt; but if Twelve of
 the Jury so returned do not appear to be
 sworn, then the Counsel for the Plaintiff
 before the Trial, prayeth the Judge to
 grant a Tales de Circumstantibus, that is,
 as many of other Persons then present as
 may fill up the Number; and they write
 upon the Panel Nomina Jur^r de Nono ap-
 postol' secund formam Statuti, (sc.) And then
 the

the Names of those *Tales Men*, and they K.'s Bench.
 are also sworn and stand with the Rest
 of the Jury; I say, if there be a *Tales*, as
 it often happens, then after existunt, you
 must say, [Et quia resid' Jurator' ejusdem
Jur non comparuer' ideo alii de Circum-
 stantibus per Vic' London (or Midox as
 the Case is) infra script' ad hoc electi ad res-
 quiōnem predict' A. B. (viz. the Plaintiff)
 ac per Mandat Capital' Justice predict' de
 novo apponuntur quorum Nomina in Pas-
 nello infra script affilantur secund' formam
Statut' in hūmodi casu edit' & provis qui
 quidam *Jur* sic de novo appoit videlic' F. G.
 &c. [Here recite all the *Tales Men*] ex-
 act' silit' vener' qui ad dictatem de infracon-
 tent' simul cum ali' *Jur* predict' prius Im-
 panellat' & *Jurat* dicend' electi triat' & jurat'
 dicunt super Sacram suu quod predictus
C. D. the Defendant Assumpsit sup' se
 modo & forma prout predictus A. B. (viz.
 the Plaintiff) interius h̄s eum queritur &
 assidunt dampn' ipsius A. B. occone non
 performance promission' & assumpcion' in-
 frascript' ultra mis' & custag sua per ip-
 sum circa sectam suam in hac parte appoit'
 ad vigin' libr' & pro mis' & custag ill' ad
 quinquaginta & tres solid' & quatuor denar'
 (the usual Costs given by the Jury) Jo,
 &c.

This is the Form of a *Postea* in an Action on the Case upon Promise, wherein there is a *Tales* and a Verdict for the Plaintiff

K.'s Bench.tiff by Default, that is, when the Defendant (after the Jury is returned, or ready to give in their Verdict) doth not appear, being called, knowing the Verdict will certainly be against him.

There are several other Forms of Postea's, of which it is necessary to add some Precedents.

The Form of a Postea for the Plaintiff, upon Non Assumpsit, with a Tales, where the Defendant appears and does not make Default.

Postea die (sc.) venit tam infranofiat' A. B. quam infrascript C. D. per Attornat suos infracont' Et Jur' jur' unde infra sit menço exact' quidam eorum videit C. F. G. H. (sc.) verēt in Jur' ille jurat' existunt' Et quia resid' Jur' ejusdem jurat' non comparuer' Iō al de circumstant' per Vic' London' infrascript ad hoc elcid ad requisicōn' prediā A. B. ac per Mandat Capit' Justic' prediā de novo apponuntur quorum nōia Panello infrascript affilan- tur scdm' formam Statut' in humod' casu edit' & provis' qui quidem Jur' sic de novo appoi' videit I. L. L. M. (sc.) exact' filit' vener' qui ad hītak de infracontent simulcum al' jur' predict' prius ad hoc im- panellat & jurat' dicend' elci triat' & jurat' die super Sacram' suum quod predict' C. D. assumpsit super se modo & forma prout pre- dia' A. B. intius hīlus eum queritur & assis- sunt dampnū ipsius A. B. occōne non pformas-

com

cōd promissiōnē & assumpcōnē infrascripē ul̄ K.'s Bench.
 tra mis' & custag' sua per ipsum circa seā suam in hac parte appoit' ad cent' libr' & pro mis' & custag' ill' ad 53 s. 4 d. Iō, sc.

For the Defendant upon *Non Assumpſit.*

Postea die (sc.) die super Sacraū suum quod predict' C. D. Non Assumpſit sup se modo & forma p̄t pdict' C. D. p̄llicando interius allegavit (sc.)

For the Plaintiff upon *Non culp' in Trover.*

Postea die (sc.) die sup Sacraū suum quod pdict' C. D. est Culpabilis de p̄mis. infrascripē modo & forma p̄t pdict' A. B. int'ius h̄lus eum narrabit Et assidunt dampnū ipsius A. B. occōne infrascripē ultra mis' & custag' sua p̄ ipsum circa lectam suam in hac parte appoit' ad 100 l. Et p̄ mis' & custag' ill' ad 53 s. 4 d. Ideo, sc.

In Detinue for the Plaintiff.

Postea die, (sc.) die sup Sacraū suum quod pdict' C. D. detinet a p̄fāt A. B. infrascrip' quatuor quarti frumenti prout pdict' A. B. interius h̄lus eum queritur Et ulte' Jur' die sup Sacraū suum quod easdem quatuor quarti frumenti valent 4 libr' & assidunt dā ipsius A. B. occōne dentencōnis predict' 4 quarter' frumenti ad 20 solid' & p̄ mis' & custag' ill' ad 53 s. 2 d. Iō, sc.
 [the Judgment in this is remarkable, therefore]

K's Bench. fore I add it here] Jo cons est quod pdic' A.
 W. recuperet h̄lus pfat C. D. pdic' 4 quarter
 frumenti vel pdic' 4 libr p valoze eozundem
 ac dā sua pdic', &c.

Aliter in Detinue pro Quer'.

Postea die, (sc.) die sup Sacram' suum
 qd predict C. D. detinet a prefato A. W. in-
 frascrip' argenteum poculum in Parr' in-
 frascrip' interius specificat modo & forma
 put predict A. W. interius h̄lus eum Ques-
 ritur & assidunt dā ipsius A. W. occone de-
 tenconis argentei poculi ill ultra mis' &
 custag' sua per ipsum circa sec' suam in
 hac parte appoit si idem A. W. libacōn' ipsius
 argentei poculi here possit ad 10 s. & p mis'
 & custag' ill ad 53 s. 4 d. Et si idem A. W.
 libacōn' ejusdem argentei poculi habere non
 possit tunc Jur' pred assidunt dā ipsius A. W.
 p valoze' argent poculi predict ultra mis' &
 custag' sua predict per ipsos Juratores in for-
 ma predicta assess. ad 5 l. (sc.)

*For the Plaintiff in Debt upon Conditions
 performed.*

Postea die, (sc.) die sup Sacram' suum
 quod pdic' C. D. non solvit pfat' A. W.
 Super infrascrip' Fest' diē sancti Johis Bap-
 te qui fuit in Anno Domini 1705. infra-
 scrip' in Condicione infrascrip' superius spe-
 cificat' infrascrip' centum libr quas ei ad vel

sup eodem die soluisse debuit secundum forz K.'s Bench.
 mam & effect Condic predict modo & forma
 prout pdict C. D. interius p̄litand allegavit
 & assidunt dā ipsius A. B. occōne ill ultra
 mis' & custag' sua per ipsum circa sect' suam
 in hac parte appoit ad 4 denar' & p mis' &
 custag' ill' ad 53 s. 4 d. Id, &c.

For the Plaintiff upon *Solvit ad Diem*
 pleaded to a Penal Bill.

Postea die, (&c.) die super Sacra suum
 quod predict C. D. non solvit p̄fat' A. B. in-
 framenconat' 100 l. sup infrascrip' 10 die
 tunc instant Octob scdm formam & effect'
 bill' Obl' inframenconat' modo & forma put
 pdia' A. B. interius versus eum queritur &
 assidunt dā, (&c.)

Pro Quer' upon Non est factum.

Postea die, (&c.) die sup Sacra suum qd
 infrascrip' scriptum Obligatorium p̄ infra-
 script 100 libr in Part infrascrip' interius
 menconat eg factum pdia' C. D. put pdic
 A. B. interius inde versus eum queritur &
 assidunt dā ipsius A. B. occōne ill' ultra mis'
 & custag' sua p̄ ipsum circa sect' suam in hac
 parte appoit ad 4 denar' & p mis' & custag'
 ill' ad 53 s. 4 d. Id, (&c.)

Pro

K.'s Bench.

Pro Quer' upon per Dures pleaded.

Postea die, (sc.) die super Sacra suum quod infrascript C. D. die & anno in Parte infraspecificat fuit sui juris ad largum extra quamlibet Prisonam & scripium Oblig' infra menconat ex mera & spontanea voluntate sua fec' sigillavit & ut scilicet suum eidem A. B. adiunc & ibidem deliberavit & non p' vim & durit imprisonment ille modo & forma p' dict C. D. interius p'litans allegavit & assidunt dā ipsius A. B. occone detenconis debet illius inframenconat ultra mis & custag' sua per ipsum circa sect' suam in hac parte apposuit ad 12 denar & p' mis & custag' ille ad 53 s. 4 d.

Pro Quer' in an Assault and Battery upon Non culp'.

Postea die, (sc.) die sup Sacra suum quod pdict C. D. die anno & loco infraspecificat in pdict A. B. insult fec' & ipsi' verberavit vulneravit & maletractabit modo & forma p'c idem A. B. interius versus eum narravit Et assidunt dā ipsius A. B. occone p'missorum infracontent ulk mis & custag' sua p' ipsum circa sect' suam in hac parte apposuit ad 10 libr & p' mis & custag' ille ad 53 s. 4 d. Id, (sc.)

Pro Quer' upon son Assault demesne.

Postea die, (sc.) die sup Sacra suum quod pdict C. D. die & anno supradict Vi & Arind pdict de injuria sua propria & absque casu p ipsum C. D. supius allegat in ipsum A. B. apud R. pdict insult fecit & ipsum verberavit vulneravit & maletractavit ita quod de vita ejus despatabatur contra pacem Domini Regis nunc put pdict A. B. interius versus ipsum queritur & assid dampnū ipsius A. B. occōne transgt pdic' ultra mis & custag' sua p ipsum circa lectam suam in hac parte ap- poit ad quadragint solid & p mis & cu- stag' ill ad 53 s. 4 d. Id, (sc.)

The Continuances of these Postea's upon the Roll are after this Manner; after the Joining of the Issue ibid, sc. you add thus:

Postea continuaſ inde pcess' int partes Postea conti-
pdict de placito pdict p Jur' pōit inde nued on the
int eos in respect coram Domino Rege apud Roll.
Westm usque diem Lune pr' post Octab
Pur bte Marie extunc pr' sequend nisi dilect'
& fidel Dni Regis R. R. Mil Capital Ju-
stie dicti Dni Regis ad placita in Cur ip-
suis Domini Regis coram ipso Rege tenend
Assign prius die Sabti pr' post Octab Pur-
ific beate Marie apud Guild-hall London
p form Stat, sc. ven p defcnd Jur', sc.
ad quem diem coram Dno Rege apud Westm
ven

K.'s Bench. vñd pdict A. B. p pdict C. F. Attorni suid
 pdict & pfat Capital Justic coram quo, sc.
 mis' hic Record suid coram eo hit in hec ver-
 ba, s. Postea die & loco, (sc. as before
 usq.) Iō, (sc.)

See after for entring up the Judgment.

If at the Assizes, say;

Postea continuait inde pcelz', (sc. as be-
 fore usq.) Nisi Justie Domini Regis ad
 Assizes in Com pdict capiendo assidu die
 Martis 22 die Augusti apud L. in Com p-
 dict' p formam Statut, sc. vñd p defac
 Jur, sc. Ad quem diem coram Domino
 Rege apud Westm vñd pd h. p Attorni
 suum pdict. Et pfat Justie Domini Regis
 ad Assizes coram quibus, sc. mis' hic Record
 suum coram eis hit in hec verba, s. Postea
 die & loco infracont, (sc.) Vide Assizes post.

Pro Quer^r in Ejectment.

Postea scilicet die & loco infracontent coram
 R. Raymond Mis Capital Justic infra-
 script associat sibi Johē Ince Gen p forma
 Statut, sc. venit iam infranominat A. B.
 qnd infracript C. D. p Attorni suos infra-
 content & Jur Jur unde infra sit menso exad-
 silic vñd qui ad veritatem de infracontent
 dicend elei triat & jurat dicunt sup Sacra
 suum quod pdict C. D. est Culpabilis de
 Transgr & Ejecione firme infracripte modo
 & forma pnt pdict A. B. interius versus eum
 queritur & assidunt dampn ipsius A. B. occo-

ne Transgressionis & Ejectionis ille ult mis K.'s Bench.
 & custag' sua p ipsum circa sectam suam in ea
 parte appoit ad 12 d. & p mis & custag' ille
 ad 53 s. 4 d. Iō, &c.

Pro Def. in Ejectment.

Postea scift die, (sc.) die sup Sacra luid
 quod pdic̄ C. D. non est Culpabilis de
 Transgredion & Ejection firme infraspe-
 cificat p̄t idem C. D. inkius plitando al-
 legavit. And the Judgment is — Iō conſ
 est quod pdic̄ A. B. nil capiat p Bill suam
 pd sed p falso clamore suo sit inde in miā &
 pdic̄ C. D. inde eat sine die.

Pro Quer' in Ejectment, where the Jury
 find the Defendant Guilty as to a fourth
 Part, and to the rest Not guilty.

Postea die & loco, (sc.) triaſ & ſuraſ
 quoad infrascript Transgr & Ejection in
 quarta parte omnium & singul teñtorum
 infrascript cum p̄t (eisdem teñtis in quatuor
 parties inde dividend) dic̄ sup Sacra luum
 qd pd C. D. est inde Culp modo & forma p̄
 at pd A. B. inkius versus eum queritur & ale-
 fidunt dampna ipsius A. B. occone Transgr
 & Ejectionis ille ult mis' & custag' sua p
 ipm circa sectam suam in hac parte appoit
 ad ſex denar & p mis' & custag' ille ad 40 s.
 & quoq; aliquam Transgr & Ejection in
 tribus al; partibus teñtorum pdic̄ cum p̄t
 neid resid om̄ teñtorum pdic̄ (in quatuor
 partes inde dividend) Iur pdic̄ ulterius
 dig

K.'s Bench die super Sacram suum pdic^t quod pdic^t
 C. D. non est inde Culpabil prout idem
 A. B. interius inde plitando allegavit.

Pro Def. where the Plaintiff is nonsuited.

Postea die & loco infracontent coram R.
 Raymond Mil Capital Justice Dom' Regis
 infrascript associat sibi Gen p fo^r
 mam Statut (sc.) Vnde tam infranominat
 A. B. Quer quam infrascript C. D. Def.
 p Accorū suos infracont & Iur sic unde in-
 fra sit menē exact' silit vener qui ad veri-
 tate de infracont dicend elci trial & jurat
 fuer ac a barra hic de veredicto suo inde red-
 dend ad colloquend recesser ac inde int se col-
 locut & agreat' fuer ac ad veredict il^t reddend
 ad barr hic revener sup quo pd A. B. licet los-
 lempnit exact non ven nec est will suam in-
 frascript erga pfat C. D. ultet pros', Iō (sc.)

For the Plaintiff upon Plene Administravit.

Postea die (sc.) die sup Sacra suid qd
 pdic^t C. D. die impetracionis Bille infra-
 specificat scilicet 23 die Januarii Anno (sc.)
 huit diversa bona & catalle que fuer infrascript J. S. (viz. the Testator or Intestate)
 & diversa bona & catalle que fuer pd J. S.
 tempore mortis sue in manibus pd C.
 D. admiristrand & assidunt dampnid (ut
 supra.)

Aliter in Case.

Postea die (sc.) die sup Sacra suid qd
 pdic^t C. D. 23 die Ianuarii Anno (sc.) huit
 diversa bona & catalle que fuer pdic^t J. S.
 tem-

tempore mortis sue in manib⁹ suis admini- K.'s Bench.
 strand ad valenc⁹ p⁹ 100l. in Parr p⁹ superius
 specificat modo & forma p⁹dict A. B. su-
 pius allegavit & assidunt dampna ipsius A. B.
 occōne non performaçon' pmission⁹ & assump-
 tion⁹ p⁹ ultra mis⁹ & custag⁹ sua per ipsum
 circa lectam suam in ea parte appōit ad . . .
 & p mis⁹ & custag⁹ ille ad 53s. 4d. The
 Judgment is, —— Iō cons⁹ est qđ p⁹ A.
 B. recuperet d̄lus p⁹ C. D. dampn⁹ sua p⁹ p
 Jur⁹ p⁹ in forma p⁹ assessa necnon 20l. & 10s.
 pro mis⁹ & custag⁹ suis eidem A. B. p Cur⁹
 Dñi Regis hic ex assesse suo de Inci' o adjus-
 dicat que quidm' dampn⁹ in toto se attingunt
 ad . . . l. de bonis & catallis qđ fuerunt
 p⁹ J. S. in manib⁹ p⁹ C. D. administrand⁹
 levand⁹ si tantum in manib⁹ suis administrand⁹
 heat Et si tantum in manib⁹ suis non heat
 tunc p⁹ . . . l. p mis⁹ & custag⁹ p⁹dict
 de bonis & catallis ipsius C. D. ppr⁹ levand⁹
 Et p⁹ C. D. in mia, &c.

Postea's of Records at the Assizes.

Poste die & loco infracontent coram R. R.
 Mil Capital Justic Dnd Regis de Ban-
 co * & S. L. Arm' eidem R. R. & R. B. Mil * The
 und Justic dict Dnd Regis ad Allias in Judge's
 Com' B. capiend⁹ Assignd per formam Dia- Associate
 tu⁹, &c. hac vice associat plent predict who returns
 R. B. non expectat virtute brevis dicti
 Dnd Regis de si non omnes, &c. ven⁹ in-
 franominal S. P. per Accord⁹ sudi infracontent
 Et infrascript R. O. Ged licet solemnis ex-
 act non ven⁹ sed defal⁹ fecit Ideo Jur⁹ un- Default of
 de infra fit men⁹ capiatur vers' eid p defal⁹ Def.
 Et Jur⁹ sur ille exact quidam eoz videlicet

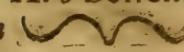
K.'s Bench. M. R. & T. M. venit & in sur' ill' jurat ext-
 Tales. stunt Et quia resis Jur' ejusdem Jur' non
 comparuer' Ideo al' de Circumstantib' per
 Vic' Com' po ad hoc elect ad requisicōn' po
 S. P. ac p' Mandat' Justic' po de novo appo-
 nuntur quoꝝ nomina Pannello infrascripꝫ
 assilantur secundū formam Stat' in hu-
 jusmodi casu edit & p'vis' Ac Jur' sic de noz-
 vo appoit videt T. L. J. G. J. V. (sc.)
 exact sili' venit qui ad veritat' de infracon-
 tent simul cum al' Jur' pdict' prius impanel-
 lat & Jurat' dic' sup' Sacra suum qd' po R. O.
 assumpsit sup' se modo & forma put' po S. P. in-
 lius inde vers' eum queritur Et assidunt
 dampna ipsius S. P. occōne infraspec' ult mis'
 & custag' sua per ipm circa sectā sua in hac
 parte oppoit ad quatuor libr' Et p' mis' &
 custag' ill' ad quadraginta solid' — Ideo,
 sc.

The Judgment hereupon is :

Judgment for the Roll. — Jo cons' est quod pdict' S. P. recuperet
 vers' p'fat R. O. da pdict' per Jur' pdict' in
 forma pdict' asselz' necnon decem libr' pro
 mis' & custag' suis pdict' eidem S. per Cur'
 dict' Dñs Regis nunc hic ex assensu suo de
 incō adjudicat Que quidem dampna in to-
 to se atting' ad sexdecim libr' Et pdict' R.
 in mia'. sc.

See before for the Continuation of Po-
 stea's upon the Roll.

Upon

Upon an Issue, quoad tam triand' Exit^s quam 
ad Inquirend' quædamna, sur Demurrer.

Postea die & loco infracontent (sc. as before usq) Qui ad veritatem de infracontent simulcum al Jure pdict prius impanellat & jurat dicend elect triat & jurat quoad defec^t repara^{cōd} Cancell^r infrascrip^t interius assignd die sup Sacra suum quod pdict Decan^d & Capitul^r dimiser^t infraominat^r G. H. Cancell^r infrascrip^t modo & forma prout pdict Decan^d & Capitul^r p Parr^r suam interius inde allegaver^t Et absidunt dampn^d ipsoz D. & C. occone Conven^{cōd} ill^r fract in Erit infrascrip^t inter partes pred^r interius junct^r ultra mis^r & custag^r sua p ipsos circa secta suam in hac parte appoit ad 200 l. Et p mis^r & custag^r ill^r ad 40 s. Et quoad inquirend^r que dampn^d pdict D. & C. sustinuer^r occone fraccōd conven^{cōd} infrascrip^t Unde partes pdict in Judicio Cur^r se posuer^r si contingat Judic^r p pdict D. & C. versus pdict C. G. inde redi tunc eidem Jure die sup Sacra suum Quod pd^r D. & C. sustinuer^r dampna occone inde ad 100 l. Ideo cons^r est quod pd^r D. & C. recuperent vers^r psal C. G. dampna pdict p Jure pdict in forma pdict assess. necnon 11 l. 6 s. 8 d. p mis^r & custag^r pdict eisdem D. & C. p Cur^r dict Unde Regis nunc hic ex assensu suo de incro adjudicat Que quidem dampna in toto se atting^r ad 123 l. 6 s. 8 d. Et pd^r C. in mi^d (sc.)

Upon a Special Verdict.

Postea continuaſ inde Procesſ, (sc.) Postea die & loco infracontent coram T. T. Wil' und Iuſtie Domini Regis de Banco & T. B. ſervient ad Legem Iuſtie eiusdem Und Regis ad Aſſias in Com' D. capiendo Aſſign p formam Stat ac. veſt tam infra nominaſ C. D. quam inſrascript R. R. p Attoriū ſuos inſracontent et Iur' Iur' unde inſra fit menco exact' ſimilit veſt qui ad veritat de inſracontent dicend' elect triat & juraſ dicunt ſuper Sacram' ſuum quod ante Transg' & Ejection' in terris in Parr' inſrascript menconat quidam J. H. ſeit fuit de eisdem terri in diuino ſuo ut de Feodo & ſic inde ſeit exiſteſt condidit Testamentum & ultimū voluntat ſua in ſcriptis int al' de terris inſrascriptis p nomen cuiuſdam Inſtas in hec verba, I give and bequeath unto Anne Harrison, Daughter of my Son-in-law Thomas Harrison, my Intache in Hopefield, if my Son Thomas Hyblin happen to have no Issue Male after the Deceafe of my Wife ; and if my Son Thomas Hyblin have Issue Male, then my Will is, That the ſaid Anne shall have five Pounds paid her in Lieu of the ſaid Intache. Et poſtea pō J. obiit hens Exiſ pſat Thom' Hyblin qui huit Exiſ' mascul' de corpore ſuo liftime pcreat quendam Richardum Hyblin Et Iur' ulterius ſup Sacram' ſuum pdiſt dicunt quod Anna Wroſ pſat Jo Hyblin eundem Johannem ſuper-

vixit & postea obiit Et quod prefat Quinque K.'s Bench libe in ult volunt sua supradicta' menio, nat oblat fuerit prefat Anne Harrison post mortem prefat Et in masculo & per eandem Annam H. recusat fuerit Et ulterius Iur' pdict super Sacram suum pdict die quod quedam Anna & Eliz. Hyblin sunt sorores & heredes prefat Rich Et quod prefat Ric filius pdict Thom obiit absque Et in masculo re corpore suo litiime procreatus Et quod prefat Anna Harrison intravit in terras infra scriptas & easdem dimisit infra nominata G. A. quer virtute cuius prefat G. in terris infra scriptis intravit & fuit inde possessio nata quousque infra scriptis R. R. in & super possessione ipsius G. intravit & ipsum a possessione sua ejecit modo & forma prout infra script G. ulterius versus eum narravit. Et quod pdict R. R. modo Def. est Guardianus pdict Anne & Eliz. Hyblin & ad earum usum intravit. Sed utrum super totam materiam preso per Cur' pdict in forma pdict compert pdict R. R. sic Culpabilis de Transgr & Ejectione pdict necne Iur' pdict penitus ignorant Et petunt inde advisamentum Justie & Cur' hic Et si super tota materia pdict in forma pdict compert videbit Justie & Iur' hic quod pdict R. R. est Culpabilis de Transgr & ejectione infra script tunc Iur' pdict super Sacram suum pdict die quod pdict R. R. est Culpabilis de Transgr & ejectione infra script modo & forma put pdict G. A. interius hunc eum querit Et assidunt dampna ipsius G. A. occasione Transgr & Ejectione ultra miss & custag sua per ipsum circa

K.'s Bench, sectam suam in hac parte apponit ad ser des
 ~~~~~~ nō Et pro mis' & custag' ill' ad 53 s. 4 d.  
 sed si super tota materia pdict in forma  
 pdict competi videbit' Justie & Cur hie  
 quod pdict R. R. non est Culpabilis de  
 Transgr & Ejectioni pdict tunc Iur pdict su-  
 per Sacra suum pdict die Quod pdict R.  
 R. non est Culpabilis de Transgr & Ejectioni  
 po put idem R. interius p se plitando allega-  
 vit Et quia Cui dict Dom Regis nunc hic de  
 iudicio suo de & sup pmissis reddend nondum  
 avisat Dies inde dat est pfat G. A. qd sit co-  
 ram Dno Rege apud Westm die Mercurii  
 pr post Octab sec Trin de iudicio suo inde  
 audiens Go quod Cur dicti Dnd Regis  
 hic nondum, ( sc. ) ( And so is continued  
 until Trinity-Term next following ) Ad quem  
 diem coram Dno Rege apud Westm veni  
 partes pdict per Attorū suos pdict sur quo  
 visis & p Cur dicti Dnd Regis nunc hic  
 plenius intellectis omnibus & singulis p-  
 missis maturagz deliberatione superinde hīa  
 considerat est quod pdict G. A. recuperet  
 vers pfat R. R. Terminū suum pdict ad-  
 huc ventur de & in tentis pres cum per-  
 trin ac dampna sua pdict per Iur pdict  
 in forma pdict assē necnon 13 l. 6 s. 8 d.  
 p mis' & custag' suis eidem G. A. p Cur  
 dicti Dni Regis nunc ex assensu suo de ins-  
 tro adjudicat Que quidem dampna in to-  
 to se atting' ad 16 l. 8 s. Et pdict R. R.  
 capiat, &c.

There are several other Forms of Postea's, as the Action, Verdict, and divers Sorts of Proceedings require, which would take up too much Room in this small Treatise; these are inserted as being of general

ral Use, and to give Insight into the Forms K.'s Bench. and Methods of drawing them up : And as it was observed before, if the Trial be Costs taxed at the Assizes in the County, the Judge's on the Record, Associate ingrosseth the Postea on the Record after cord, and so in those Cases it is not the the Postea's Attorney's Business ; he only carrieth it to returned. the Master to have Costs taxed, and then enter up Judgment according to the former and following Instructions.

When you have the Postea ingrossed, carry it to the Clerk of the Postea's to be marked, who is Mr. .... and sits in the King's Bench Office for that Purpose, and he will write on the Top of your Postea the Day of the Month D. by — for which you pay him 4*d*. Then carry your Postea to the Clerk of the Rules, and desire him to give a Rule upon the Postea, for which you must pay him 1*s*. 4*d*. That Rule will be out in Four Days, if Sunday doth not intervene, and then Five; for the Defendant hath always Four Days to move the Court in Arrest of Judgment, if he hath any Cause to shew ; as that neither he nor his Attorney had Notice of Trial, or that the Record differs from the Declaration pleaded unto, in some material Point ; and several Causes may be alledged, of which generally Affidavit ought to be made.

When the Rule is out, if the Judgment be not arrested, you must now have the Record stamped on the Back with a double Half-Crown Stamp, and carry it to the Master of the Office, Mr. Clark, and

Four Days  
allowed for  
Arrest of  
Judgment.

K.'s Bench. he will tax you further Costs, which are called Costs *De Incremento*, and then is your Judgment fit to be entred.

*Postea* upon  
a Trial at  
the Assizes.

But if your Trial be at the Assizes in the Country, then you do not take away the Record and Distringas with you, but the Associate keeps it till the next Term, indorses the *Postea* upon it, for which he receives his Fee at the Trial; and you are to call upon him a little before the Beginning of the ensuing Term, to put him in mind to have the *Postea* ready; and then you must proceed to have it marked, and a Rule given, and Judgment signed as before; yet for Expedition you will have Occasion to enter the Judgment to *Postea* your self. Now for the Entring the Judgment, Care must be taken that no the Roll.

Error be committed. The Rolls to enter them upon are delivered out by Mr. Gibbons in the Middle Temple; you must make a small Margent about a Thumb's Breadth, then begin about a Span from the Top of the Roll in large set Court-hand, in these Words, *Adhuc de Terminus Sancti Hillarii*, as the Term is, *Testate Roberto Raymond, Ml'*. Then next it is usual, according to a late Rule, to write the Warrant of Attorney next, after this Manner, *viz.*

Warrants of  
Attorney on  
the Roll.

London scilicet A. B. *pro* *lo suo J. C. At-*  
*tornatum suu* *versus C. D. de plito Trans-*  
*ge sup Casum* (or as the Action is, as de  
*plito debiti, &c.* if there be an alias dict  
in

in the Declaration, your Warrants of At-K.'s Bench-torner must be so too, and so if there be Executors or Administrators.) Then By Stat 4 & under the first you enter another for the Defendant thus: London scilicet C. D. (viz.) (the Defendant) pō lō suo E. F. At-<sup>5 Ann</sup> the Attorney for the Plaintiff shall file his cognat suum & sus A. B. in plico pdick, Warrant of (some put it ad sc̄t' A. B in plico pdick, which seems the better Way); then within ha'f an Inch under begin to enter the Judgment thus:

London scilicet, Memorandum &c. as before. So recite the whole Record till you come to the End of the Issue. and then say, Postea continuaat inde proceſſ inter ptes pdick de plico pdick p Jur pdick pbit in- de int eas in respectu coram Dño Rege apud Westm usq Diem, &c. (as it is in the Jurat of the Record) nisi Dilcus & fidelis Dom Regis Robertus Raymond fil' Capital' Justie Dom Regis ad plita in Cur' ipsius Dñi Regis coram ipso Rege tenend Allign prius die (as in the Jurat) apud Guildhall Lond p forma Statut ven pro defcū Jur, &c. ad quem diem coram Dño Rege apud Westm ven pdick A. B. per Attorū suid pdick & pſat Capital' Justie coram quo, &c. misit hic Record suum coram eo habit in hec verba scilicet Postea Die & Loco &c. there recite the whole Postea verbatim — Iō Cons' est qd pdic' Judgment. A. B. recuperet versus pſat C. D. debicum suum pd' & dampna sua pdick per Jur p- dic' in forma pdic' asses' nec non 7 l. 16s.

K.'s Bench. 8 d. (viz.) (the Cost de Increments taxed by the Master) p mis' & custag' suis pdict eidem A. B. p Cur' dicti Dom' Regis nunc hic ex assensu suo de Incrō adjudicat que quidem dampna in toto se attingunt ad tris gink Libr' summing up the whole) & pdict C. D. in Mia, &c. (and write Mia in the Margent: But in Ejectment and in Trespass, and upon Non est facium pleaded, there instead of & pdicis' C. D. in Mia you must say,) Et pdicis' C. D. Capiatur, &c. and Capiatur in the Margent. And thus is your Judgment enter'd and finished: And you must remember to leave a good Space between it and the Beginning of another Judgment, that you may have Room to enter Committiturs, which is when the Defendant is charged in the King's Bench Prison, and to enter Satisfaction acknowledged upon the Record, &c.

Issues and  
Judgments  
entered.

And note, That you may enter the Issues and Judgments on both Sides the Roll; but you must remember not to write too near the Bottom of the Roll on the Fore-side of it, because within an Inch of the Bottom, and where the Roll is of full Breadth, you are to write the Number of the Roll, and the chief Clerk's Name thus, in great Court-Hand and Figures:  
Rol'lo cxxv.

Ventriss.

The

The same Method for those at the Af. K.'s Bench.  
sizes in the Country, (*mutatis mutandis.*)

Note, Upon a  
Trial at the  
Assizes.

When you have Occasion to write on  
the Back-side of the Roll you must be-  
gin over against the first Line of your  
*Memorandum*, on the Fore-side, or there-  
abouts, leaving a Margent as on the o-  
ther Side.

Next we will shew how to enter Judg-  
ments that are without Trials.

### *How to enter Judgments without Trials upon the Rolls.*

**T**Hese Judgments are entred  
upon the like Rolls as the  
other ; nay, you may enter them  
upon the very same Rolls if you  
will, as is usual, observing to leave  
Spaces for *Committiturs*, *Satisfac-*  
*tions*, and such Matters as may  
occasionally follow each Judg-  
ment.

As  
*Nil Dicit,*  
*Non In-*  
*formatus,*  
*Cogn' Ac-*  
*tionem.*

Now by way of Repetition, I say,  
First, Make à Margent of an Inch wide,  
then rule a Line about a Span, from the  
Top of the Roll, then write in great Hand,  
(*Adhuc de Termio Scd Trinit T. R.*  
*Raymond, Mif,*) as the Term and Chief  
Justice's Name requires.

Next

K.'s Bench. Next enter your Warrants as is before  
 observed thus, (viz.)

For the Plaintiff.      *Somis s. A. B. pō lō suo C. D. Attornū  
 suid versus E. F. (als dict, &c. if any) de  
 plito Debi* (as the Action is.)

For the Defendant.      *Somis s. E. F. pō lō suo G. H. Attornū  
 suid versus A. B. de plito debi.*

(Or thus for the Defendant.)

*Somis s. Idem E. F. pō lō suo G. H.  
 Attornū suid ad s. A. B. de plito pō.*

Next under within half an Inch, begin  
 to enter Judgments.

*And note, That some of these Judgments  
 without Trial, are by Default, as Nil  
 Dicit; some by Confession of the Party,  
 as Cogid Acconem; some by Assent of the  
 Attorney, as Non sum Informatus, &c.)*

*Vide ante.*

You seldom have any thing but the Declara-  
 tion to enter these by, and the Nature  
 of the Judgment marked upon it, and Costs  
 taxed on the Margent of the Declaration.

*Memorandum* You must begin with a Memorandum ei-  
 ther of the same Term, or of another (as  
 you will see by the Declarations) as is  
 before directed, to the End of the Decla-  
 ration —

Then beginning a new Line, write  
 your Judgment.

*Nil Dicit, in Debt.*

Thus with  
 an Impar-  
 lance.

*E*t modo ad hunc diem scilicet diem . . .  
*E*x post . . . (the first Day of the  
 Term Judgment is entered) isto eodē Ter-  
 mis'

modo usq; quem diem propter C. D. huit licentiam K.<sup>s</sup> Bench.  
 ad Willam propter int*er*loquendt tunc ad respon- Nil Dicit, nor  
dend, &c. coram Dno Rege apud Westm ven  
 propter A. B. propter Attord luid propter Et propter C. D. li- signed by the  
Secondary;  
 cet ad eund diem solempnit' erat' non ven but an Inci-  
 nec aliquid dic*re* in barram sive pelusionen pitur to be  
 Accord propter A. propter per quod idem A. remanet made and  
 vers propter C. inde indefens, &c. Jo Cons- paid for, and  
 deratid est quod propter A. recuperet vers propter C. the Roll  
 debum luid propter necnon 33 s. 4 d. (the Costs marked.  
 taxed) pro dampnis suis que sustinuit tum  
 occone detencid debi ill quod propter mis' & In the Mar-  
 Custag' suis propter ipar circa sectam sua in hac gin of the  
 parte appoit' eidem A. propter Cur dict Dnd Re Roll, put Ju-  
 gis nunc hic ex assensu suo adjudicat. Et dic' sign' -- die  
 propter C. in mia, &c. Julii 1726.  
 & Mia'.

Note, That sometimes there is no Imparlace, as when the Judgment is confessed, &c. the same Term the Declaration is of, as followeth.

*Nil Dicit* the same Term, in Debt without an Imparlace.

**E**t propter C. in propr psona sua ven & Nil Dicit.  
 defend vim & iur quando &c. Et pet' license ad bil' propter interloquend Et ei conce-  
 dit, &c. Et sup hoc dies inde dat' est par-  
 tibus predict coram Dno Rege apud Westm  
 usque diem . . . (the last Day of the Term)  
 prox' post . . . isto eod Termino vis-  
 velit propter C. ad Will predict interloquend  
 & tunc ad respond, &c. Ad quem diem  
 coram Domino Rege apud Westm ven  
 propter

K. s Bench. prob A. prot Attorny suur prob Et prob C. licet ad eundem diem solemnir<sup>e</sup> exact non ve*n*d nec aliquid (sc.) (as in the former to the End.)

*Nil Dicit*, in Case, of another Term, with  
a Memorandum.

*Nil Dicit.*

**E**T modo ad hunc diem sciit diem . . . .  
Ex post . . . . (the first Day of the Term, Judgment is entred) isto eodem Termio usque quem diem prob C. D. huit licentiam ad Willam pdic<sup>r</sup> interloquendg tunc ad respondendg sc. coram Dno Rege apud Westm vni prob A. B. prot Attorny suur prob Et pet<sup>r</sup> quod prob C. D. ad Narr<sup>r</sup> suam pres respondeat Et pdic<sup>r</sup> C. D. licet ad eundem diem solemnir<sup>e</sup> exact<sup>r</sup> non ve*n*d nec aliquid dic<sup>r</sup> in barram sive preclusionem Acc<sup>r</sup>tonis prob A. B. pro quod idem A. B. remanet inde glus eum indefens<sup>r</sup> — Ob qd prob A. B. dampna sua prob glus pfat C. D. occone \* pmis<sup>s</sup> pros sustent recuperare debeat Sed quia Cur<sup>r</sup> dict<sup>r</sup> Dni Regis nunc hic incognit existit que dampna prob A. B. occasione \* pmis<sup>s</sup> pro in hac parte sustinuit Ideo precept est Vic qd per Sacram duodecim proborum & legi<sup>r</sup> um hominidu de Wallia sua diligent<sup>r</sup> inquire que dampna prob A. B. tam occone \* pmis<sup>s</sup> pro quam pro Misis & custagiis suis pro ipm circa lectam suam in hac parte appoic<sup>r</sup> sus<sup>r</sup> tinuit Et Inquisitionem quam inde cepit Dno Regi apud Westm die Mercurii prox<sup>r</sup> post tres Septuaginas Hci Michis (the Return of the Writ of Enquiry) sub Sigil-

Writ of Inquiry.

Io suo & Sigillis eorum per quorum Sa-K.'s Bench,  
 et Inquisitionem ill cepit mittat unacum  
 he Regis ei inde direc', idem dies  
 dat' est eidem A. B. ibm, &c.

Hereupon a Writ of Enquiry of Damages must be made out, the Form whereof see after, where you may find how to enter Judgments upon this Writ. Ad quem diem, (&c.)

*Nil Dicit*, in Case, the same Term with the Declaration.

**E**t pō E. p B. C. Attorū sui venit & Nil Dicit defendit vim & injur' quando, &c. Et pō A. (the Plaintiff) pet quod pō E. ad part suam pō respondeat sup quo pō E. habet diem Lune prox' post Quindecim Scti Martini (the last Day of the Term) sibi dat p Cur Regis hic ad respondend, &c. Et idem E. ad eund diem solemnit' exeat ad respondō non venit nec idem Attorū pō E. p ipso E. aliquid inde dicit in barr' sive pclusionem actionis pō A. pō p quod idem A. remanet inde versus eund E. indefens', Ob qd pō A. dampna sua versus p̄sat E. occone\* pmiss' pō lassent' recuperare debeat, sed quia Cur, &c. (ut prox' antea.)

\* If in Trespass, you must enter as before, only mutatis mutandis; and instead of occone pmiss' pō, you must say (occone Transgr pō.

K.'s Bench.



- In Assault, occōne Transgrē & Insult pō.  
 In Assault and Imprisonment occōne  
     Trans' Insult' & Imprisonament' pō.  
 In Covenant, occōne frāccōn Conven-  
     cōn pōdīc̄t.  
 In Assumpsit, occōne non p̄fōrmation' p̄-  
     mission' & assumpcōn p̄v̄d.

In Ejectment with Damages, say as before, usq̄ —— indefens', (sc.) Ideo cons' est quod p̄v̄d A. Terminum sūr̄ adhuc ventur de & in tēntis p̄v̄d cum pertinat dampna sua occōne Transgrē & Ejection' p̄dīc̄t. Ius p̄fāt Def. recuperare debeat Sed quia Cur' dict' Dom' Regis nunc hic eozam ipso Rege incognit existit que dampna pō A. occōne Transgrē & Ejectōn pō sustinuit. Iō p̄cepe est Vic' quod p̄fāt A. plenar' possession' suam Termini sui adhuc ventur de & in tēntis pō cum p̄tūd sine dīlōne here faciat. Et qualiter hoc h̄e dicti Dñi Regis fuerit execut' dicto Dño Regi apud Westm die . . . . prox' post . . . . constare fac. Precep̄t est etiam eidem Vic' quod per Sacrm' duodecim probor' & legalium hominid de ballia sua diligend' inquire que dampna pō A. tam occōne Transgrē & Ejectōn p̄dīc̄t qm̄ p̄ mis' & custag' suis p̄ ipm circa lectam suam in hac parte apposit sus- tinuit. Et Inquisition' qm̄ inde cepit dicto Dño Regi apud Westm ad p̄fāt diem sub sigillo suo & sigillis eorum per quos rum Sacrm' Inquisition' ill' cep mittat una cum h̄i dict' Dñi Regis inde sibi dis- reg' Idem dies dat' est p̄fāt A. ibidem, sc.

Writ of In-  
quiry.

If the Judgment be with a remittit damp<sup>n</sup>. K.'s Bench na say as before, usq<sup>z</sup> — Ideocons est Remittit  
 (sc.) usq<sup>z</sup> recuperare debeat Et super hoc p<sup>r</sup> Remittit  
 dia' A. gratis hic in Cur<sup>r</sup> remittit p<sup>r</sup>f<sup>t</sup> dampna;  
 B. tñm omnia hujusmodi dampna mis' &  
 custag' q<sup>r</sup> p<sup>r</sup>f<sup>t</sup> A. in hac parte adjudicent  
 qm<sup>d</sup> omni Judic & Execu<sup>c</sup>on p<sup>r</sup> dampnis mis' &  
 custag' p<sup>r</sup> Jo p<sup>r</sup> C. de dampn<sup>d</sup> mis' & custag'  
 p<sup>r</sup> acquiet' exist' Et pet' idem A. bre Dñd  
 Regis Vic<sup>r</sup> Com<sup>r</sup> S. diregend de here fa-  
 ciend possession<sup>r</sup> termi sui p<sup>r</sup> adhuc ventur  
 de & in ten<sup>r</sup>tis' pdia' cum p<sup>r</sup> Et ei con-  
 credit' recompensabile cozam Domino Rege apud  
 Westm<sup>d</sup> die . . . . . prox' post . . . Idem  
 dies dat est p<sup>r</sup>f<sup>t</sup> A. ibidem, sc.

### Judgment by Cogn<sup>r</sup> Actionem, in Debt With- out Imparlace.

**E**t p<sup>r</sup> A. p<sup>r</sup> C. B. Accord<sup>d</sup> sudi ven<sup>r</sup> & de- Cogn<sup>r</sup> Actio-  
 fend vim & injur quando, sc. Et dic<sup>r</sup> nem.  
 qd ip<sup>r</sup> non potest dedicere Actionem pdict<sup>r</sup>  
 E. supradic<sup>r</sup> nec quin ip<sup>r</sup> debet eidem E.  
 pdia' 10 l. & 15 s. (if upon Bond say, nec  
 quin scriptum oblig<sup>r</sup> pdic<sup>r</sup> sic factum ipsius  
 A. nec quin ip<sup>r</sup> debet eidem E. pdic<sup>r</sup> 10 l.  
 & 15 s.) modo & forma prout pdic<sup>r</sup> E. su-  
 pius d<sup>r</sup>lus eum queritur Jo Cons' est quod Judic<sup>r</sup> Sign<sup>r</sup>  
 pdic<sup>r</sup> E. recuperet vers' p<sup>r</sup>f<sup>t</sup> A. debitum . . . die . . .  
 suum p<sup>r</sup> necnon 60 s. [such Costs as are  
 taxed] pro dampnis suis' q<sup>r</sup> suffinuit tam You set down  
 or<sup>r</sup>cone deten<sup>r</sup>onis Debiti illius quam p<sup>r</sup> in the Mar-  
 mis' & custag' suis per ipm<sup>d</sup> circa sedam gent when  
 Nam in hac parte apposit' eidem E. p<sup>r</sup> Cur<sup>r</sup> Judgment  
 was signed,  
 K Dñd & M<sup>r</sup>.

K.'s Bench. Dñs Regis nunc ex assensu suo adjudicat  
 Et p̄ A. in mia. sc.

The Defendant confesses the Damages,  
 to prevent the Expence and Trouble  
 of a Writ of Enquiry.

London s. **A.** B. Queritur de C. D.  
**A.** Gent uīd Philazar' Cur  
 Domini Regis cozam ipso Rege p̄sen' hic  
 in Cur in p̄pria psona sua p eo videit qđ  
 cum pdict C. post primum diem Maii  
 Anno Domini Millimo Septingentesimo  
 quinto Sic̄t vicesimo octavo die Martii An-  
 no Dñs Millimo Septingentesimo vicesimo  
 primo apud London pdict in Paroch beate  
 Marie de arcubus in Warda de Cheap fecit  
 quandam notam suam in scriptis Vocat'  
 (a promissory Note) manu sua p̄pria sub-  
 script gerend dāt, sc. (so on to) & inde  
 pducit lectam, sc.

Cognosco hanc Actionem  
 & quod Quer' sustin'damp-  
 na ad Quinquagint' Libras  
 ita quod cesseret executio usq;  
 decimum quintum diem A-  
 prilis prox' sequen' C. D.  
 9 Feb. Anno 12 Geo. Regis  
 pro mis' 6 l. 9 Feb. 1725.

Et pdict C. in p̄pria  
 psona sua venit & defendit  
 vim & Injur quando, sc.  
 Et dicit quod ipse non po-  
 test dedicere, accōnd pdict  
 A. pdict nec quin ipse C.  
 assump' sup se modo & for-  
 ma put pdict A. superius  
 inde versus eum queritur  
 nec etiam quin pdict A.  
 sustinuit dam p̄na cōone  
 non p̄ formaē p̄mission & assump̄on pdict  
 ad

ad 50 l. put ipse p̄dict A. supius narrans K.'s Bench  
do supponit Et sup hoc p̄dict A. petit ~~~~~  
Judic' et dampna illa sic cognit unacis  
mis' & custag' suis p̄ ipsum circa sectam  
suam in hac parte sustent' sibi adjudicari,  
sc. Ideo cons' est quod p̄dict' A. recu- Judic' sig'  
pet vers' p̄fāt C. dampna sua p̄dict ad 50 l. --- die ---  
superius cognit nec non sex Libras p̄ missis &  
custag' suis p̄dict ex assensu suo p̄ Cur'  
dicti Dom' Regis nunc hic adjudicat Due  
quidem dampna in toto se attingunt ad Mia'.  
56 l. Et p̄dict C. in mia, sc.

## Cogn' Actionem by Admin.

E T p̄dict A. B. & C. D. p̄ E. F. At  
suum ven' & defend' vim & injur' quan-  
do, sc. Et dicunt quod ip̄d non possunt  
dedicere quin scriptum obligatorium p̄dict  
sic factum p̄fāt G. nec quin ip̄d detinent  
p̄fāt H. p̄dict Centum Libr' modo & for-  
ma prout p̄dict H. supius versus eos que-  
ritur Iō cons' est quod p̄d H. recuperet ver-  
sus p̄fāt A. & C. debm suum p̄dict Judic' sig'  
necnon 3 l. 10 s. p̄ dampnis suis que su- --- die ---  
tinuit iam occone detencionis debri ill An. Dom.  
Geo. Regis quam pro mis' & custag' suis p̄ ip̄d cir-  
ca sectam suam in hac parte appositi p̄ Cur'  
Dnd Regis hic ex assensu suo adjudicat  
de bonis & catallis q̄ fuer' p̄d G. tem-  
poze mortis sue in manibus ipsozum A.  
& C. administrand Si tantum in manibus  
suis haecnt Et si tantum non haecnt  
tunc dampna p̄dict de bonis & catallis Mia'.  
K 2 ipso-

K.'s Bench. ipsorum A. & C. ppr levand Et idem A.  
 ~~~~~ & C. in mia, &c.

If the Defendant hath pleaded non est factum, and Issue thereupon, and after the Defendant is willing to confess the Action, then enter it thus:

See after in
Common
Pleas.

Ad quem diem cozam D'no Rege as-
pud Westm' ven' partes pdict per Attorn' d'
suos pd Et super hoc pdict A. relata ve-
rificaçōne sua pdict per ipm' supius ptens'
die quod ipd non potest dedicere Accōnem
pd E. supradict' nec quin ipd debet, &c. (ut
primo supra).

See the Nar' Judgment by Non sum Informatus, without
upon a Mu- an Imparlane, in Debt. See after
tuatus Fol. with an Imparlane.

Non Inform. **E**t pdict B. p C. Attorn' suis ven' &
defend vim & injur quando, &c. Et
pd A pet quod pd B. ad Narr' suam pd
respondeat super quo pdic' Attorn' preso
B. dicit qd ipd non est inform p eund
B. de aliquo respons' p eod B. eis A. in
pmillis vnde nec aliquid aliud inde die in
varram sive pclusionem Accōnis ipsius A.
pdic' p quod idem A. remanet inde vers'
pdic' B. indefens', &c. o——o Jo
Cons' est Quod pd A. recuperet vers' pre-
fat B. debum suis pd necnon Sexagine
& tres

¶ tres solid (the Costs usually allowed) K.'s Bench.
 ¶ dampnis suis que sustinuit tñ occone des
 tenconis debi ill qm p ms & custag' suis ^{Judic' Sign'}
 p ipm circa sectam suam in hac parte ap- die Nov.
 posuit eis A. p Cur dicti Dñ Regis nunc ^{1726.}
 hic ex assensu suo adjudicat Et pdia' B. in
 mia, &c.

See after for one with an Imparlane.

Note, Costs upon a Bond only 53 s. because 'tis supposed the Plaintiff may take more Cost out of the Penalty.

Write as above usq — indefens', &c. Non Inform
 — Db qd pd A. dampna sua s̄lus p̄fāl in case sur
 B. occone non p̄formaçōn promissōn & als Assumpſit.
 sumpcōn pd recuperare debeat Sed quia Cur
 dict Dñ Regis nunc hic cozam iplo Rege
 incognit existit qz dampna pd A. occasione
 non p̄formaçōn pmillion & Assumpſōn pd
 in hac parte sustinuit Iō p̄cept est Vic qd
 p Sacram xiiim p̄bor & legl̄um hominum
 de Ballia sua diligent inquire qz dampna
 (&c. as in Pil dicit in Case, only instead
 of occone p̄miss', say occone non p̄forma-
 çōn pmillion & assumpſōn pd &c.

If in Trespass then as next above, only
 mutatis mutandis, say, occone Transgr
 pd.

If in Trespass and Assault, then say,
 occone Transgr & Insult pd.

Judgments.

If in Trespass, Assault and Imprisonment, say, occōne Transḡt Insuli & Imprisonament p̄d.

Et sic de ceteris.

Note, If your Non Inform be of another Term with an Imparlace, you must begin as in others.

Non Inform
with an Imparlace.
67, 106.

— Et modo adhunc diem scilt, &c.
as before (usq;) Et idem B. defend vim &
injur quando, &c. Et sup hoc p̄d A. pet qd
p̄d B. ad Narr suam p̄d respond, &c. sup
quo p̄d Attorū p̄dict B. dic quod ipē non
est inform per eund B. &c. (as before.)

Note, By the Act for Amendment of the Law, 4 and 5 Ann. It is enacted, that all Statutes of Jeofails shall be extended to Judgments which shall at any Time be entred upon Confession, Nil Dicit, or Non sum Informatus in any Court of Record; and no such Judgment shall be reversed, nor any Judgment upon any Writ of Inquiry of Damages executed thereon be staid and reversed, for or by Reason of any Imperfection, Omission, Defect, Matter or Thing whatsoever, which would have been aided and cured by any of the said Statutes of Jeofails in case a Verdict of Twelve Men had been given in the said Action or Suit, so as there be an Original Writ or Bill and

† 18 Eliz. c.
14.

and Warrants of Attorney duly filed, ac- K.'s Bench.
cording to the Law as is now used.

We will next proceed to Writs of Execution upon the aforesaid Judgments, and upon Judgments by Trial and Verdict.

But first we will see a Writ of Inquiry of Damages, where the Judgment is without Trial.

Note, the Clerks of the King's Bench, when they carry in their Entries, docquet them thus on a Sheet of Paper in Court-Hand; after having taken their Numbers for the Rolls, from the *Nisi prius* Office.

Intraçones A. B. gen⁹ un Cliv⁹ Ord⁹
Ventrīs, Arm⁹ Capital⁹ Cleric⁹ Dnd⁹
Regis, sc. de Termio sed Trin⁹ An-
no Regni Georgii nunc Regis Mag⁹
Britannie, sc. duodecimo.

Teste Rob. Raymond, Mſ,

| | |
|--|----------|
| Dors' fl. Nil die in debo sur
Dbl' int' L. M. Assign⁹
W.B. At nuper Vic
Com⁹ S. quer⁹ Et S. B. als dia' S. B. de W.
in Com⁹ S. Gen⁹ tam p 4000 l. debit quam
46 l. p mis⁹ | Rotlō 97 |
|--|----------|

K.'s Bench.

L. s. Non ps' in debo p
defeu Repl int' R. P. }
vid Adm S. P. quer } Rotlo.
Et W. C. Prisonar }
Def.

S. s. Non Inform in de- }
bo sur mutual int T }
C. Quer & J. A. tam } Rotlo.
p 500 l. debit quam }
63 s. p mis.

D. s. Int' Sed fa in de- }
bo int' C. S. Quer } Rotlo.
Et H. L. Def. tam }
p 155 l. debit quam }
63 s. p mis.

Honset s. Non culp in Tuisgr }
int A. B. Quer & } Rotlo 106.
D. E. Def.

Glowe s. Nil die in debo p }
100 l. sur Obe int' }
A. B. Quer alias }
dict' (t.) D. E. } Rotlo eod.
(t.) & p.. p }
damp & mis.

And so of the Rest,

Writ of Inquiry of Damages.

Gorgius Dei Grā Magid Britannie Not to be
Franc & Hibnie Ker Fidei Defens, signed at the
 sc. Vic S. Haltem Cum A. B. nuper in Cur Office, but
 nostra coram nobis apud Westm per Willa sealed.
 sine brevi nostro impletaslet C. D. in Custos
 Mar Maresc nostre coram Nobis existet
 p eo videat quod cum pdict C. D. primo die
 Iau Anno Regni nostri duodecimo apud, Note, If it is in
 (sc. and so on as it is in the Declaration the Declara-
 verbatim, only saying) Anno Regni nostri tion Anno Do-
 II° or 12° (instead of Anno Regni mini milles-
 Dñi Regis nunc, as in the Declaration, mo septingen-
 till you come to) Ad dampnum ipsius A... tesimo vi-
 Librarum ut dixit Et inde pdurit sectam, sc. cesimo sexto:
 Taliterq in eadem Curia nostra coram nobis Insert it in
 pcess suit quod pd A. dampna sua versus pfat the Writ, and
 * C. occone pmiss' pdict recuperare debeat not the
 Sed quia Cur noīe coram nobis incogit ex- * If against
 istit que dampna idem A. occone pd susti- an Executor,
 nuit Iō tibi picipimus quod p Sacra duodec C. (the Ex-
 phorum & legalium hominum de balliva tua ecutor) occa-
 diligent inquit que dampna idem A. tam oc- sione præmissis
 cione pdic' quam p mis' & custag' suis p ipsū predicit' de bo-
 circa sect' sua in hac parte appoit sustinuit & nis & catallis
 inquisicōnem quam inde feceris nobis apud qua fuer' (Te-
 Westm die Mercurii prox' post tres septimas re mortis sue
 nas sancti Michis [the Day of the Return] in manibus ip-
 sub sigillo tuo & sigillis eorum p quorum Da- sis C. admis-
 tra Inquisicōn ill cepis constare fac & heas nistrand', si
 ibi tunc hoc b̄d Teste R. R. Mil tantum in ma-
 Westm 12 die Junii Anno Regni nostri, beat, recuperare
 duodecimo. Ventrīs debeat, sed,
 &c. as herein.

The

K.'s Bench.

The Form of a Spā ad Testificand upon
this Writ of Inquiry, for the Plaintiff's
Witnesses.

You sign and seal this Writ.

Gorgius Dei Gracia Magnū Britāniā
Francē & Hibnīe Rex Fidei Defensor,
(et.) J. S. S. T. (naming your Witnesses;
You may not insert more than Four) sal-
tem Precipimus vobis & cuilibet vestrum qd
omnibus & singulis negotiis & excusationibus
quibuscumque cessant sitis & quilibet vestrum
sit in propriis personis vestris coram T. B.
Ar Vic Com S. aut ejus subvic die . . .
die Octobris prox' futur apud Hospitium cui-
jusdam J. T. vocat le Star-Inn in L. in Com
tuo pdic ibidem ad testificand ea omnia &
singula secundum notitiam & scientiam ve-
stras que sciveritis vel aliquis vestrum scive-
rit in quadam actione in Curia nostra coram
nobis jam pendend inter H. K. Quer &
H. H. Def. * de p'ito convene frack in quo
Transgress', or quidem plito quoddam breve nostrum de In-
quir' de dampnis eidem Vic nostro S. p nos
e Curia nostra coram nobis miss & direct cor-
ram eodem Vic in forma juris adiunc & ibi-
dem est exequend & hoc nullatenus omittatis
nec aliquis vestrum omittat sub pena 100 l.
Teste R. R. Mil, &c.

Ventriss.

Upon this you must fill up a Ticket to
leave with each Witness.

By Virtue of a Writ of *Subpæna* to you directed and herewith shewn unto you, The Ticket. you are personally to be and appear before *R. B. Esq;* Sheriff of the County of *S.* or his Under-Sheriff, on *Friday 12th Day of this instant October*, at two of the Clock in the Afternoon, at the House of *Mr. J. T.* commonly called the *Star-Inn* in *L.* then and there to testify the Truth according to your Knowledge upon a Writ of Enquiry of Damages to be then and there executed in a certain Cause now depending between *H. K.* Plaintiff and *H. H.* Defendant in a *Plea of Covenant broken:* On the Part of the Plaintiff; and this you are not to omit upon Pain of *100l.* dated the *3d of October*, in the *12th Year of the Reign of our Sovereign Lord George by the Grace of God,* &c. *Annoq; Domini 1725.*

Note also, That you must first give the Defendant or his Attorney Notice of your Intention, to execute the Writ of Inquiry after this Manner :

M. N. A. versus B. in Case.

*P*RAY take Notice of the Executing a *Writ Note*, You of Inquiry of Damages in this Cause must always on the *10th Day of this instant July*, at *Ten of* give *8 Days the Clock in the Forenoon of the same Day*, at Notice of the Court-House at Westminster. [If it be ting your Execu- in quiry.

K.'s Bench in Middlesex and Term-Time; otherwise
 you must name the Time, the Sign of the
 House, and the Town.]

June the 17th.

1726.

From your Servt.

H. Y.

The Entry and Continuance of the Judg-
 ment on the Roll, upon this Writ of
 Inquiry. Vide antea.

Ad quem diem coram Dño Rege apud
 Westm venit pdict A. B. per Attornum
 suum pdict Et Vt videlicet P. M. Mil Vt
 * If in London, * Coram S. pdict record quendam Inquisition
 say Civitat coram + eo apud Castrum V. in Coram + S. po
 London. 10 die Iulii Anno Regni Domini Georgii nunc
 + Eis. Regis Magnae Britan, &c. duodecimo p Ha-
 vit' London sci- crat duodecim pboxum + legalium hominum
 zuat' in Pa- de S Ballia sua capi p quam compit existit qd
 roch' Sancti pd A. B. sustinuit dampna occone pmiss. pd
 Lawrenzii in ultra mis + custag' sua p ipsum circa sectam
 veteri Judaif- mo in Warda suam in hac parte appdit ad 100 l. + p mis
 de Cheap ejus- custag' ill ad 3 l ex den Ideo cons est qd pd
 dem Civitatis. A. recipit versus pstat C. dampn pd p Inqui-
 s Ballis suis. scon pd supius compit necnon 14 l. 19 s. +
 27 s. 4 d. 6 d. p mis + custag' suis p ipsum circa sectam
 Incrm'. suam in hac parte appdit eidem A. p Cur die
 Domini Regis nunc hic ad requisition suad de in-
 tro ad indicat que quidam dampna in toto se
 attinet ad 115 l. Et pdict C. in miā, &c.
 If it be in Trespass, you say Capiatur, &c.

Of Arresting Judgments.

BY the Course of the Court after a Verdict there must be a Rule given (which is out in Four Days) before the Plaintiff can enter his Judgment or take out Execution; which Time is given for the Defendant to move in Arrest of Judgment.

If the Cause be tried within Term, the Rule may be given the Day after the Trial, the *Postea* being indorsed and marked.

If the Sitting after the Term, or at the Assizes, the Rule cannot be given until the first Day of the ensuing Term.

And note, That by the Rules of the Court no Counsel ought to move any Thing in Arrest of Judgment; except the Roll whereon the Judgment is entred, or the *Postea*, be in Court.

And it is said to be a sufficient Matter to arrest a Judgment (when sufficient Notice of the Trial was not given, according to the Course of the Court) so as to obtain a Rule for a new Trial upon the Old Pleadings.

Also one may speak in Arrest of Judgment given on a *Nihil dicit* after the Writ of Inquiry of Damages: (Upon which Writ the like Rule is to be given as upon a *Postea*.)

And no Judgment ought to be entred until the Costs be taxed, and the Judgment signed by the Secondary of the Office.

After

K.'s Bench. After Judgment by Confession, or *Nil dicit* entered, or after a Verdict at the Assizes, and Judgment thereupon, the Writs of Execution are made out, which are of three Sorts.

1. Either against the Body, as a Capias ad satisfaciendum.

2. Or against the Goods, as a Fieri facias.

3. Or against the Lands, as an Elegit.

The several Forms whereof follow.

But Note, That if you once charge the Body in Execution, you have no Remedy against the Goods or Lands, unless the Defendant escape voluntarily, or be discharged by Privilege of Parliament. *Stat. I. Jac. Cap. 13.*

Ca 'Sa' in Debt.

You only
seal this
Writ.

* If there be an *Alias dict'* you must re-cite it.

Gorgius Dei Gratia Magne Britannie
Franc & Hibernie Rex Fidei Defens^r,
et. Vic S. Saltm Precipinus tibi quod Capias C. D. * si invent fuerit in ballia tua
eum salvo custod ita quod Habeas corpus
ejus coram nobis apud Westm die ... et.
(the Return) ad satisfaciend A. B. de virgin-
ti libris de debito [the Debt in the Decla-
ration] quas idem A. B. nuper in Cur' na-
coram nobis versus eum recuperavit nec-
non de triginta solid octo denar [the Costs]
qui

qui eidem A. B. in eadem Cur' nostra coram K.'s Bench.
nobis adjudicat fuer' pro dampnis suis que sustinuit tam occone detencō debi illius
quam pro mis' & custag' suis p ipm circa
Sectam suam in ea parte appōit Unde pres-
dict C. D. convict' est sicut nobis constat
de Recordo. Et habeas ibi tunc hoc breve
Teste R. Raymond Mil apud Westm' ...
die Anno regni nr̄d duodecimo.

Ventr̄is.

Note, That if the Action was by way of Original, you must make your Cōd Sā returnable coram nob̄ in, — sc. ubicunque tunc fuerimus in Anglia.

Ca' Sa' in Case upon Assumpsit.

Georgius Dei Gratia (sc. as before)
ad satisfaciend A. B. de 20 l. pro
dampnis suis que sustinuit tam occone non
per formaconis quarundam promissiōnē & Al-
sump' eidem A. p pfat C. nup fact quam p
mis' & custag suis per ipsam circa sectam sus-
am, (ut antea.)

Ca' Sa' in Trespass upon the Case General.

Ad satisfaciend A. B. de 20 l. p damp-
nis suis qz sustinuit tam occone cujusdam
Transgr' super Calum eidem A. per pfat
C. nuper illat' quam p mis' & custag' suis p
ipm' circa sectam suam in hac parte appōit,
sc. (ut antea.)

In

In Trespass and Assault.

Tam occōne cūjusdam tūsgr & insult p
ipm' C. sup eund A. nuper fac' quam p
mis' & custag', sc.

In Trespass only.

Ad satisfaciēnd J. B. de 20 l. p dampnis
suis q̄ sustinuit tam occōne cūjusdam Tūsgr
eidem A. p pfat C. nup illat' quā p mis',
sc. (ut antea.)

In Covenant say.

Tam occōne cūjusdam convenēnd frāc'
eidem A. p pfat C. nuper fac' quam p
mis', sc. (ut in al.)

In Ejectment say,

Tam occōne cūjusdam Transgr & Ejec-
tōn firme eidem A. pfat C. nuper illat qm'
p mis', sc. (ut in al.)

Ca' Sa' for several Damages in Trespass.

Gorgius Dei Grā (sc.) Wit S. saltem
Precipimus tibi qd capias C. D. nup de
(sc.) & E. F. nup de (sc.) Ad satisfaciēnd
A. B. duos solid p dampnis suis q̄ huit occōne
capētionis & abducēonis lex Dvium ejusdem A.
Et etiam eosdem C. & E. ad satisfaciēnd' eidem
A. de sex libris q̄ eid A. in Cur nrā coram
nobis apud Westm adjudicat fuer p mis' &
custag'

rustag' suis occōne Transgr' pō eidem A. per K.'s Bench;
 pſat C. & E. vi & armis & contra pacem n'cam ~~~~~
 apud G. in Comū tuo illat unde convicti sunt
 scut nobis constat de Recordo Et heas (sc.)

Testat' Ca' Sa' in Debt.

Gorgius Dei Grā Magne Britannie If the Decla-
 ration be laid
 (sc.) Vic L. saltem Cum Vic nō S. nup in London, or
 precepimus quod capet C. D. si invent fuisse any County,
 in Walliva sua & eī salvo custod ita quod he- and the
 ret corpus ejus coram nobis apud Westm there, and
 ad certū diē jam preferit ad satisfaciend A. the Defen-
 B. de 20 l. de debo quas idem A. B. nup in dant not be-
 Cur nra coram nobis versus eum recupa- ing to be
 rit necnon de 30 s. & 8 d. qui eis A. B. in found there,
 ead Cur nra coram nobis adjudicat fuerunt as before, is
 p dampn suis q sustinuit tam occōn deten- awarded to
 tōnis debi ill' quam p mis & custag' suis the Sheriff of
 p ipm' circa sectam suam in hac parte appōit London, &c.
 Unde pred C. D. convict' est sicut nobis con- who returns
 stat de Recordo Dcūsque Vic nostr S. ad and thereup-
 diem ill nobis return qd pō C. non fuit in- on this Writ is
 vent in Wallia sua super quo ex parte pred made out and
 A. in Cur nostra coram nobis sufficient tes- directed to
 tat est quod pō C. latit & discurr in Com of the Coun-
 tuo Iō tibi precipimus quod capias eum si ty where the
 invent fuit in Wallia tua Et eum salvo Defendant
 custod ita quod habeas corpus ejus coram no- sculks:
 bis apud Westm die ... p' post Ad
 satisfaciend pſat A. de debo & dampnis pō
 Et heas (sc.) T. sc.

K.'s Bench.


Ca' Sa' against the Bail in Debt.

Gorgius (sc.) Precipimus tibi quod capias
C. D. de, sc. E. F. de (sc.) Massuapt G. H. si, (sc. as before) ad satisfaciend A. B. de 200l. de debito necnon de
4l. pro dampnis suis (sc. as before for
Debt) Unde idem G. convict' est sicut nobis
constat de Recordo Et unde in eadem Curia
nra coram nobis apud Westm considerat est
quod pdict A. heat execuconem suam versus
psat C. & E. pro debit & dampnis pdict' juxta
vim formam & effectum cususdam Recogit
per ipsos C. & E. in Curia nra coram nobis
pro psat G. ads' po A. cognit sicut nobis
silit' constat de recordo Et heas, sc. (ut
in af.)

Note, There must be a Ca' Sa' against
the Defendant, and a Non est inventus re-
turned and filed before the suing forth this
Vide post. Sci' Fac' Writ against the Bail. And it must be by
the Sheriff of the County where the
Action is laid.

Ca' Sa' against the Plaintiff for Costs up-
on a Nonsuit.

If you take out a Ca' Sa', Quod capias A. B. sc. — Ad satisfac' D.
and imprison E. juxta formam Statuti in humori casu inde
nup edic' & provis' de 5l. eide D. pro mis' & custag' suis in Accione quadam in Curia
nra coram nobis versus ipsum D. ad lect' pdict A.
de plito debiti [or Trans sup Casum, as
the Case is] adjudicat' Unde idem A. post-
modum

modum Acc'onem ill' non fuit prosecut' Et K's Bench
Heas ibi tunc hoc h̄eō Teste, (sc.)

**Ca' Sa' for Costs against the Plaintiff af-
ter a Verdict.**

Ad satisfac' D. E. de 30 s. eidem D.
suxta formam Statuti inde nup edic' & p̄vis
pro mis' & custag' suis p̄ ipm circa defens-
sionem suam in quadam Acc'one debi [as the
Action is] ad secr' pdict A. in Cur' pdict
djudicat' Et heas, (sc. ut in al.)

Note, That if you make out a C'ad S'ad
after a Sc'd F'a hath issued, then after
the Words sicut Nobis constat de Recordo,
you must add,

— Et unde in eadem Cur' nrā co-
ram Nobis cons' est Quod pdict A.
habeat Execu'conem versus pdict D. de
debo & dampnis pdict' Et habeas, sc.

Ca' Sa' for an Administrator.

Ad satisfaciend A. B. Gen' Administrat'
omnium & singulorū boid & catal' Jurid &
Creditorū que fuer' C. D. nup defunct' qui
obiit intestat de decem libris de debo nec-
non (sc.) p̄ dampnis (ut in al') sicut nobis
constat de Recordo Et unde in eadem Curia
nostra coram nobis cons' est quod pd A.
inde heat execu'conem suam. Et heas (sc.
ut in al').

Ad satisfaciend A. B. Gen Executor
Testi & ult' Voluntat C. B. defunct'
d em libris (sc. ut antea.)

Fieri Facias in Debt.

Not to be signed at the K.'s Bench Office, but only sealed.

Gorgias Dei Grā Magne Britannie Franc & Hibnie Rex Fidei Defens' &c. Vt S. saltem Precipimus tibi quod de bonis & catallis C. D. (and if it be upon a Bond, you must say, alias dict', as in the Obl.) in Wallia tua Fieri Fac' centum libr' quas A. B. nuper in Cur' nostra coram nob̄ apud Westm̄ recuperavit versus eum de 63 s. usual Costs on M- tuat', and 53 s. on Bond debo necnon 30 s. qui eidem A. nup in eadem Cur' nostra coram nobis adjudicat' fuerit p dampnis suis que sustinuit tam occone detenconis debiti ill' quam p mis' & custag' suis p ipsum circa lectam suam in hac parte appoit' unde idem C. D. convic' est sicut nobis constat de Recordo Et denar' ill' heas coram nob̄ apud Westm̄ die Mercurii pr' post Quinden' Pasche Ad reddend pfat A. de debo & dampnis pdict' Et heas ibi tunc hoc b̄d Teste, &c.

If you first sue out a *Fieri Facias* against the Defendant's Goods, and levy Part thereof, and not the Whole, then you may afterwards have a *C. Sa.* against the Defendant's Body, or a 2d. *f. fa.* or an *Elegit* for the Residue, but if you first imprison upon a *C.*

a Ca. Sa. you cannot haye a *Fieri Facias*, K.'s Bench.
or an *Elegit*.

Fieri Fac. in Case upon Promise.

— As before usq; — p dampnis suis
que sustinuit tam occōne non pformācōn quā-
rundam pmissionē & assumpcōn eidem A. p
pfat C. nuper fact' quam pro mis' & custag'
suis (sc. as before.)

In Covenant.

— As before usq; — pro dampnis suis
que sustinuit tam occōne frāccōnis eiusdā-
m convenēcōn int' pfat C. & pdick A nu-
per fact' quam p mis' & custag' suis p ip-
sum circa sectam suam in hac parte appōit
(sc. ut antea.)

In Ejectment:

Que sustinuit occōne eiusdām Transgē &
Ejectōn firme pfat A. p p̄ed C. vi & ar-
mis & contra pacem n̄am apud E. in Com̄
tuo illat (sc.)

In Trespass.

Occōne eiusdām Transgē eidem A. p p̄o
C. vi & armis (sc. ut p̄t' antea.)

Against an Administrator.

Quod de bonis & catallis q; fuer' C. D.
defuncta tempore mortis sue in manib; &

K.'s Bench custod E. F. Administrat' omnium & singulorum bonorum & Cataallow Jurid & Creditor q[uo]d fuer[unt] pdict' C. tempore mortis sue qui obiit intestat', sc. existet in ballia tua Fieri fac' 100 l. quas A. B. (sc.) Unde convictus est sicut nob[is] constat de Recor do si tantum in manib[us] suis habeat & si tantum in manib[us] suis non habeat tunc dampna pdict de bonis & catallis ipsius E. F. propr Et denar ill[us] heas (sc. ut in al.)

Note, If it be against an Executor, you say, Quod de bonis & catallis q[uo]d fuer[unt] A. B. defuncta nup dia' (sc.) tempore mortis sue in manibus & custod' C. D. Executor Testi & ult voluntat' pdict A. in ballia tua Fieri fac (sc.)

Fieri Fac. against the Plaintiff for Costs to the Defendants.

Quod de bonis & catallis A. B. in ballia tua Fieri fac decem lib[er]t que C. D. iuxta formam Statut inde nuper edit & provis' in Cur' nra coram nobis adjudicata fuer[unt] p mis' & custag' suis circa defensionem sus am in quadam accione Trangr (Tulsg[er] super Casum, sc.) ad sect' pdict A. Et denar ill[us] heas coram nobis apud Westm die (sc.) ad reddend pl[et] C. pro mis' & custag' suis pdict & heas (sc. ut in al.)

A Testat' Fieri Fac^t in Debt.

Georgius Dei Gr^a (sc.) Vic^t B. saltēt
 Cum Vic^t n^r f^s S. nup pcepimus quod de
 bonis & catallis C. D. in ballia sua Fieri fac^t
 100 l. quas A. B. nup in Cur^t nostra co^ram nobis apud Westm^d recuperavit vers^e
 eum de debito necnon 30 s. qui eidem A.
 nup in eadem Cur^t n^r co^ram nobis ad-
 judicat fuer^x p dampnis suis que sustinuit
 tam occōne detenēt debiti ill^t quam pro-
 mis^x & custag' suis p ipsum circa legam sus-
 am in hac parte appōit Unde convic^t est si-
 cut nobis constat de Recordo Et denar' ill^t * he, * H'eren-
 ret co^ram nobis apud Westm^d ad certum di-
 em jam ptericum ad reddend^t pfat A. B. de
 debito & dampnis pō * Dēcūlq^t Vic^t nr f^s S. * Dictique
 ad diem ill^t nobis retoz^t quod p^red C. nulla f^s London.
 huit bona seu catalla in Wallia sua unde
 denar' ill^t Fieri fac^t * potuit sup quo ex parte * Potuer;
 pdic^t A. in eadem Cur^t nostra co^ram nob^t suf-
 fie testatum est q^t pō C. bona & catalla Hec
 sufficiēt in ballia tua unde denar' pō Fieri
 fac^t possis Ideo tibi pcepimus quod de bonis
 & catallis pō C. in ballia tua Fieri fac^t pō
 100 l. de debito & 30 s. p dampnis pō & de-
 nar' ill^t heas co^ram nobis apud Westm^d die
 Sabati pr^t post Crastin^d Ascēnēt D^r Ad
 reddend^t pfat A. B. de debito & dampnis p^r-
 dia^t in forma p^red Et heas ibi tunc hoc b^re
 Teste; (sc.)

If you take out a Ca^t Sa^t or Fi^t Fa^t and
 they take no Effect, you may have an
 Elegit.

Elegit in Debt.

For Signing
at the Office
you pay 1 s.
8 d.

Sealing 7 d.

An Elegit is
for all the
Defendant's
Chattels but
his Oxen
and Beasts of
convict' est
h.lf of his
Lands.

Westm' 2. c.
18. Stat. 3
Edw. 3. c. 18.

Gorgius Dei Gratia Magne Britan-
nie Frane & Hibernie Rex Fidelis
Defensor, Eccl. Vic. S. saltētum Cum A. B.
nup in Curia nrae coram nobis apud West-
mon' p. Will sine brevi nro ac p. Judicē eisdē
Cur recuperabit verius C. D. 100 l. de debo

necnon 40 s. pro dampnis suis que sustinuit
tam octōne detencōn debiti ill' quam pro
mis' Ecclag' suis p. ipsum circa lectam sus-
am in hac parte appōit' unde idem C. D.
Et quia p. A. venit in Curia nrae coram
nobis & Elegit sibi liberari omnia bona

& cataalla p. C. preter boves & astros de
caruca sua & similī' medietat' om̄ & sin-
gulorum terrarum & Tenitorum predict C.
in Walliva tua tenend sibi & assignatis su-
is (ut liberum tenementum suum) iuxta
formam Statuti inde edit' & provis' quo-
usque debit' & dampna predict plenar' in-
de levaverit Ideo tibi precipimus quod p. sat
A. omnia bona & cataalla p. dict' C. in Wal-
liva tua p. ter boves & astros de caruca sua &
slit' medietat omnium terrarum & teñto-
rum p. dict' C. in Wallia tua de quibus p.
dict' C. die Anno regni
nři quarto quo die Iudicium p. dict' redditum
suit vel unquam postea suit leit' p. sat A. si-
ne dilatione Liberari fac' p. ronabil' p. tium
& Extent' Tenend sibi bona & cataalla p.
dia' ut bov' & cataalla sua propz' Acetiam
tenend medietat terr & tenement' p. dict' ut
liberum tenement' suid sibi & Assignd suis
juxta

suxta formam Statutū pdic' quoisque debil K.'s Bench.
 & dampna pdic' inde levaverit Et qualit hoc'
 breve nr' fueris execut' nobis apud Westm
 die (sc.) constare facias sub sigillo tuo & sigil-
 lis eorum p quorum Sacrm Errant & ap-
 preciacon ille feceris mittas unacum hoc breve
 T. R. R. sc.

Note, That if you execute an *Elegit* and file it, you are barred from taking out any other Execution from that Judgment afterwards, unless evicted. *Vide Stat. 32 H. 8. cap. 5.*

If upon this Writ Goods only are levied, (because of no Lands) and they are not enough, you may have any other Writ, this being in Effect but a *Ei. Fa.*

Quere, if Lands be extended and not sufficient.

Elegit in Debt for a Residue post Fieri Fac.

Georgius, sc. Cum A. B. — nuper in Cur' nostra (sc. reciting the Recovery as before usque) sicut nob̄ constat de Recordo ^{14 Ed. 4. 11.} Cumque supinde p brevē nr̄m nuper prece- ^{47 Ed. 3. 36.} pimus quod de bonis & catallis' sc. (reci- ^{14 H. 7. 28.} ting the whole Writ of *Fd Fd*, and the Return) Posteaq; pdic' A. venit in Cur' nr̄a (as before usq;) suria formam Statuti in humod̄ casu inde edit & pvis quo- usq;

K.'s Bench. usq; 20 l. resid debiti & dampnū pdic' plesnar inde levabit Ideo tibi precipimus quod omnia bona (sc. as before usque) vel unquam postea fuit leisit' p rationabile premium & extent tenend (sc. as before) iuxta formam Stat inde edit & provis' quo usque pdic' 20 l. assid debit & dampnū pdic' inde levabit Et qualit (sc. as before.)

Elegit after an Elegit, upon Discovery of more Lands.

Georgius, sc. Cum A. B. nuper in Curia coram nobis apud Westm (sc. reciting the first Writ usque) quo usque debitū & dampnū pdic' inde levabis Et qualit precepi' nostrum fores execut' nobis apud Westm die (sc.) constare fac Tug ad diem ill' nobis return quandam Inquisitionem coram te apud Castrum E. (tli die) ult preterit p Sacrum duodecim, (sc.) cap' p quam compert existit quod pdic' C. fuit leisit' in dñō suo ut de feodo tempore recuperacione debi pdic' de Manio de (sc. reciting the Return of the Inquisition) Et quia jam datum est nobis intelligi qd pdic' C. tempore Iudicii predicti reddit & postea habuit & modo het diversa alia Manseria terras & tenet ultra ea que in returnū p specificat mentionantur quoꝝ quide manerior terrarꝝ & tenorꝝ aliorꝝ medietas in execucone pro citiori recuperacione debi pdic' habere quoꝝ debet Unde id A. nobis humillime supplicavit quod iuxta Juris exigent' ill' ita here queat Tibi igitur precipimus quod tam aliam medietatem omnium alio

aliorum Panerioꝝ terrarum & ten̄toꝝ ipsius K.'s Bench:
 C. quam illoꝝ quorum medietas in ex-
 cuſone pro soluſone debet pdicꝝ prius exten-
 existit in Walliva tua ſilit in p̄ſentia p-
 ſat C. ad inde premunend ſi interelle volu-
 erit prefat A. liberari facias p rōnabile
 pretium & extenſ tenend eidem A. & affigid
 ſuis ut liberum teñtum ſuum quoſque pre-
 dicꝝ centum libre plenū fuerint levar' Et de
 eo quod deinde feceris nobis apud Westm
 die (ſc.) ſub ſigillo tuo & ſigil-
 lis eorum p quorum Sacraꝝ Ercenſ & ap-
 pciaſon̄ ille feceris mittas una cum hoc brev
 Teste R. Raymond (ſc. ut in al)

A Writ of Possession.

Gorgius Dei Grā Magne Britannie
 Franc & Hibernie Rex Fidei Defens'
 ſc. Vix S. ſalutem Cum A. B. nuper in Cur
 noſtra cozam nobis apud Westm p billam
 ſine brevi noſtro ac p Judicꝝ ejusdem Cu
 recuperabit verſus C. D. Terminū ſuum ad
 huic ventur de & in tribus meſuagiis vi-
 ginti & quatuor acris terre (* ſc.) cum ptiꝝ * As in the
 ſituat († ſc.) que quidam E. F. tertio Declaration,
 die (ſc.) Anno (ſc.) [as in the Declara- † Ibid.
 tion] eidem A. dimiſit ad t̄minum annoꝝ
 qui nondid pteruit videlic a tricesimo die (** Ibid.
 ſc.) ulq ſinem & t̄mid septem annoꝝ ex On this
 tunc p̄or ſequen & plenar completo & fi- Writ the
 niend Virtute eius quidam dimiſionis idem Sheriff may
 A. in p̄o tria meſuag' (ſc.) cum ptiꝝ intra- break open
 vit & fuit inde poſſeſſionat quoſque p̄o C. give Poſſeſſi-
 poſtea ſcile eodem tertio die (ſc.) Anno on, for after
 (ſc.) pdicꝝ Vi & armis ſc. in pdicꝝ tria meſ Judgment,
 luag (ſc.) cum ptiꝝ in ſlup poſſeſſion' p̄o A. House of Te-
 inde intravit & ipm A. a firma ſua pdicſtant or De-
 terminū fendant.

K.'s Bench. termino suo proprie nondum finit' ejecit expul-
lit & amovit Ideo tibi precipimus quod prefat
A. possession' suam Termino sui pdict ad-
huc ventur de & in proprie tribus messuag' &
* viginti quatuor acr terre cum pertin (sc.)

* If contain- Habe fac & qualit hoc brev n*m* fueris
ing more A-execut nobis apud Westm die (sc.) con-
cres than in stare fac Et heas ibi tunc hoc breve Te-
the Declara- se (sc.)
tion, it is er-
roneous

Thus you have seen the Form of se-
veral Writs of Execution after Verdict
or Judgment.

Next follow some other Writs and
Process, which you may often have
Occasion to make out, viz.

Attach' Privileg'.

An Attachment of Privilege for a Clerk of the King's Bench.

By Stat. 12 Geo. Affida-
vit must be made, that the Cause of Action is 10 l.
Gorgius Dei gratia, (sc.) Uic S. salut^d
Precipimus tibi quod attach A. B. C.
D. E. F. G. H. I. K. L. M. N. O. sc. (for
you may put in a great many) si invent
fuerint in Palliva tua & eos salvo custos
or above, to ita quod heas corpora eorum eoram nob^a as-
hold the De-pud Westm die . . . px post . . . ad re-
spondans A. B. Gen' un Clericorum Ord
Ventr' Arm Capital Clerici nostre ad plita
in Cuc nostra eoram nobis irrotuland al-
sigid juxta Libertat' & Privileg' p humdi
capital' Clerico & ejus Clericis a tempore
eiusus contrarii memoria hominum non exi-

If bailable
insert the
Acetiam.

scit usitat & approbat in eadem de placito K.'s Bench.
 Transgr Et heas ibi tunc hoc h̄e, Teste 
 R. R. sc.

An Attachment for an Attorney of the
 King's Bench.

Ad respondens E. E. Genū vid Attorū
 in Curē nostra coram nobis existēd̄ iuxta
 libertatem & p̄ivileg' p̄ humod Attorū a
 tempore cūsūs contrarii (sc. as before)

*Note, No Pleading the Stat. Limitat. to
 an Attorney's Bill.*

An Attorney jointly sued with other
 Persons, or as Executor or Admini-
 strator, loses his Privilege.

Certiorari pro omnibus Querelis & om-
 nibus Attach'.

Georgius Dei gratia (sc.) Majori (sc.)
 salutem Dolentes certis de Causis Certio-
 tari [tam] de omnibus Querelis in Cur-
 īa coram vobis seu aliquo vestrū vers
 C. D. ad lectam A. B. levat' sive affirmat
 (quam de quibuscumque Attach sup Querel
 ill' sive eorum aliqua in manibus E. & F.
 (sc.) seu eorum alterius fact' [vobis & cui-
 libet vestrū mandamus quod Querel p̄dict'
 (ac Attach p̄b & eorum quodlibet) cum omni-
 bus ea (sive eorum aliquid) tangend̄ coram
 nobis apud Westm̄ die (sc.) prox' post
 (sc.) adeo plene & integre prout coram vos
 bis seu aliquo vrm̄ resident' mittatis unacum
 hoc

K.'s Bench. hoc breve ut ulterius inde fieri fac qd de Ju-
re & secundum Legem Regni nostri Angl so-
re viderimus faciend Teste, &c.

Habeas Corpus returnable in Court.

To remove a
Cause out of
the Sheriff's
Court, London

Gorgius, (et.) Majori Alder & Vic
Civis London sactem Precipimus vo-
bis qd corpus C. D. in Prisone nostra sub
custod vestra vel alicujus vestrum ut dicitur
detenk sub salvo & secur conduct una-
cum die & causa captioonis & detentionis sue
quocunque nomine idem C. censeat in eadē
Heatis coram nobis apud Westm die
pp' post . . . ad respondend A. B. de plito
debiti Ac ulterius ad fac & rec ea omnia &
singula que Cur nostra coram nobis de eo ad-
tunc & ibidem cons in hac parte Et heatis
ibi tunc hoc breve Teste R. R. apud Westm
die — anno regni nostri 12,

Ventris.

Upon Return of the *Habeas Corpus*,
the Plaintiff may give a Rule for a Pro-
cedendo, except the Defendant put in
Bail within Four Days in Term, and
Six Days in Vacation.

*Habeas Corpus returnable immediately be-
fore the Chief Justice.*

As before us — quocunq nomine idem
C. censeat in eadem heatis coram dilecto &
fidel nostro Robto Raymond Mil Capital
Justic nostro ad Plita in Curia nostra coram
nobis tenend assign apud Cameram suam si-
uat

tua in Serjeant's Inn in Fleetstreet London K.'s Bench.
immediate post receptione hujus brevi ad fac
& recipiend ea omnia & singula que idem
Capitalis Justic nostr de eo adtunc & ibidem
consideraverit in hac parte Et heatis ibi tunc
hoc brevi Teste, &c.

*Habeas Corpus before One of the Puisne
 Judges immediately.*

Coram A. B. Mil uir Justic nostrorum ad
 placita in Cur nostra coram nobis tenend as-
 signd apud Cameram suam situat, (&c.) im-
 mediate post receptione hujus brevis ad fac &
 rec, &c. (as before)

*Habeas Corpus in Vacation' return' at a Day
 certain.*

Habeatis coram (&c.) die Lune quar-
 to die Aprilis circa horam tertiam post
 meridi ejusdem diei——ad fac & rec,
 &c. (ut supra).

An *Habeas Corpus* to remove a Person,
 charged with Actions in the King's
 Bench, from the Fleet to the King's
 Bench.

Georgius, &c. Guardiano Prisone nostro
 de le Fleet salutem Precipimus tibi quod corpus
 A. B. in Prisone nostra sub custodi tua ut di-
 citur detent sub salvo & securro conductu una-
 cum die & causa captionis & detencionis sue
 quo-

K.'s Bench. quo^cunque nomine idem A. censeatur in eadē habeas coram nobis apud Westm die — prox' post — ad respondend C. D. de placo transgr aceriam ville ipsius C. versus ipsum A. pro 100 l. de debito secundum cons
*Ret' in Cur'
B. R.* Cur nostra coram nobis exhibend & ult ad faciend & recipiend quod Curia nra coram nobis de eo adiunc & ibid consideraverit in hac parte Et habeas ibi tunc hoc breve Teste, &c. (as before.)

Habeas Corpus ad testificand.

Georgius, &c. W. N. Ar Mar Maresc nra coram nobis existē salutem Precipimus tibi quod corpus A. B. in Prisona nra sub custodi tua ut dicitur deten^t sub salvo & seculo conductu quo^cunque nomine idem A. censeatur in eadem heas coram dicto & fideli nro R. R. M^r Capital' Justic nro ad pl'ita in Curia nra coram nobis tenend assignid apud Westm in magna Aula placit ibid die — ad horam octav' ante meridiem ejusd diei ibid ad testificand veritat scienc sue in quadam causa in Curia nra coram nobis jam pendend & adiunc & ibidem triand inter C. D. Quer & E. F. Def. in pl'ito conventiond fract & tunc imēdiatē post dict A. B. Testimoniū suum cor' p'sal Capital' Justic adiunc & ibidem dederit ad retorid ipsum A. B. ad eandem Prisonom nra sub salvo & seculo conduct Et heas ibi tunc hoc breve T. &c.

Habeas Corpus ad prosequend.

Ad prosequend villam suam versus C. D.
in p[ro]prio debiti prout ill[us] in Cur' nostra coram
nobis incepit ut ulterius in hac parte proces-
dere valeamus prout de Iure foze viderimus
procedendo & heatis, sc.

Ad respondend'.

Ad respondend A. B. de p[ro]ficio debiti (or
de p[ro]ficio Singr, &c. as the Case is) It u[er]o
terius, as last before.

Ad satisfaciend.

Ad satisfaciens A. B. de 20 l. p Dampniis
suis que sustinuit tam occone eiusdem
Eng^r eidem A. p pfat C. nuper illat
quam p mis' & cultag suis, [sc.] as in
Ca Sa sicut nobis constat de Recordo Ut ul-
terius, sc. (as above.)

Habeas Corpus, where *Languidus in Prisone* was returned.

Gorgius, (sc.) saltem Precipimus tibi
quod corpus C. D. per te capi & in pris-
sona nostra sub custodia tua licet languidus
decent sicut p retoꝝ tuum [or retoꝝ] R. F.
nuper Vic Com pdicꝝ] in Curia nostra co-
ram nobis mis nobis liquet manifeste heas
coram nobis dic, (sc.) ad respond [or ad sas
M cisfaciend

K.'s Bench. tisfaciend, &c. as before] A. B. de plito
 Transgr [or plito debiti, &c. mutatis mu-
 tandis] Et habeas, (et.) ut in al.

Habeas Corpus upon cepi Corpus.

Precipimus tibi quod Corpus C. D. per
 te capi & in Prisone nostra sub custodia tua
 detent prout tu ipse p retorū tuū in Curia
 nostr coram nobis als miss teipsum onerasti
 habeas coram nobis apud Westm —
 die ————— (et.) ad respond A. B. de plito
 transgr Et habeas, et.

The like to the Sheriff of Middlesex upon
 a Cepi returned.

Precept est Uic quod corp' C. D. per se
 capi & in Prisone Domini Regis sub custos
 tua detent prout tu ipse per retorū tuū in
 Curia Domini Regis coram ipso Rege alias
 mis' se oneravit habeat coram Domino
 Rege apud Westm ————— die ————— (et.)
 Ad respondend A. B. de plito Transgr Et
 habeat ibi tunc hoc pcept, et.

To remove an Action out of an inferior
 Court into the King's Bench; you must
 know the Stile or Title of the inferior
 Court; for which see in Thesaurus Brevis-
 um. The most usual inferior Courts in or
 about London, are the Marshal's Court, the
 Directions whereof is Iudicibus Curē palas-
 tii nostri Westm & eorum cuiilibet saltent
 Precipimus vobis & cuiilibet vestrum qd cor-
 pus, et. The Sheriffs Courts of London,

Marshal's
Court.

London.

their Title is Majori Alderman & Vic' Lon. K.'s Bench.
don & eorum cuilibet saltē. The Court of Stepney, the Direction is, Seneschallo White-Chapel,
Cur nostre de Recordo infra Maner' de Stepney & Hackney in Com' Middx Hamblet & Libertat eozundem necnon Capital
bailio ejusdem Libertat & eorum utriusque salutem, &c. This Direction is double, for that there is a Gaol for Defendants arrested in that Liberty by Writs out of superior Courts, as well as by Process out of the Court: The Court is commonly called White-Chapel-Court. When you have made your Hab' Corpus ad faciend & recipiend, then upon a Piece of Parchment cut like a little Bail-piece, which is called the Fiat, write thus for the Marshal's Court.

Cur Pall' Fiat b̄z de Hab' A Fiat,
Corpus pro C. D. ad fac' &
rec' ret' immediate,

Pleadwel }
Accord }

And then make a Ticket on Paper.

Cur Pall' s. Hab' Corpus pre
C. D. ad fac' & rec' ret' im-
mediate.

Pleadwel.

And the same Fiat and Ticket for London, only put London in the Margent; and for Stepney, Cur manet de Stepney in the Margent.

K.'s Bench. Then carry your Hab' Corpus with the Fiat and Note to Mr. Hawley in the King's Bench Office, who will stamp the Hab' Corpus and return it to you, and keep the Fiat and Note: You must pay him 7 s. 8 d. in the Vacation, and 6 s. 8 d. in Term-Time. Note, The Parchment on which you write the Hab' Corpus, must be stamp'd with a 5 s. Stamp. Seal your Hab' Corpus as you do other Writs, and carry it to the inferior Court to be allowed.

You must observe, that formerly in those inferior Courts, if the Debt were small they enter'd the Action 4 l. 19 s. The Reason was, That an Action under 5 l. originally was not to be removed but tried there. But Industry had found out an Expedient for that, for if the Action was under 5 l. you brought another Action of 5 l. or above, at whose Suit you pleased against the same Defendant, and then the Habeas Corpus removed both Actions together at any Time before the Trial.

But this Method of removing Actions under 5 l. is now altered by the 12 Geo. cap. which recites that, *Whereas the Statute of 21 Jac. I. for the more effectual Preventing the Delays and Expence occasioned by the Removal of small Causes out of inferior Courts, hath been of late evaded and rendered ineffectual, by the Contrivance of vexatious Defendants, who by setting up a fictitious Action against themselves, for a pretended Demand of 5 l. or upwards, by such their Contrivance, procure the smallest Actions to be removed*

removed by Writs of Hab' Corp' out of the inferior K.'s Bench. into the superior Courts, whereby the Plaintiffs in such small Actions, which will not bear the Expence of such superior Courts, are necessitated to submit to the Loss of their just Demands; now for preventing such Abuses, and rendering the said Statute more effectual for the future, It is enacted, That from the 24th of June, 1726, the Judge of such inferior Courts, as are described in the said Statute, shall or may proceed in such Actions, Bills, Complaints, Suits or Causes, as are therein specified, which appear or are laid not to exceed the Sum of 5 l. altho' there may be other Actions against such Defendant or Defendants, wherein the Plaintiff or Plaintiffs Demands shall or may exceed the Sum of 5 l. This Act to continue in Force 5 Years, and to the End of the next Session of Parliament.

You pay 4 s. 10 d. for the Allowance of the Hab' Corpus and sometimes more when there are many Causes to be returned, for all the Causes the Defendant stands charged with above 5 l. must be returned with the Habeas Corpus. Some few Days after the Delivery, call for the Return, and carry it with your Bail to a Judge's Chamber, and there put in special Bail, for which you pay 7 s. 4 d. except it be against the Defendant as Executor or Administrator, for then no special Bail is required above. Also the Plaintiff's Attorney may serve the Defendant's Attorney with a Rule for a Procedendo, if Bail be not put in in Time; *Procedendo,* that is, in six Days after Service thereof in the Vacation, and Four in Term. Any of the Judges Clerks will give the Rule, and

K's Bench. if Bail be not put in in Time, the Plaintiff takes out a Summons to attend the Judge to shew Cause why a Procedendo shou'd not be awarded, and if no Cause shewn on the 3d Summons they make out a Procedendo, and carry back the Cause, and try it in the inferior Court. See the Writ of Procedendo herein after.

Note, If your Habeas Corpus be directed to any of the said inferior Courts, or any other within Ten Miles of London, you make it returnable immediately; but if the Court be above Ten Miles distant, then the Return must be on a certain Day.

Note, If the Defendant be actually a Prisoner in some of the Prisons belonging to these inferior Courts, the Difficulty will be greater, for he cannot be discharged out of Prison till the Bail on the Habeas Corpus be accepted or justified in Court; and therefore in such a Case, the more ready and cheaper Way is to put in Bail to the Action in the inferior Court, which will discharge the Defendant, and then bring the Habeas Corpus to remove the Cause.

But if the Defendant cannot find Bail, and would be removed to the King's Bench Prison, you must deliver the Habeas Corpus, and they will make you a Return, and send an Officer with the Defendant to a Judge's Chamber, and a Committitur must be writ in Parchment, and the Judge's Tipstaff takes the Prisoner into his Custody, and charges him to the King's Bench Prison: You pay 1*l*. 8*d*. at the Judge's

Judge's Chamber ; the Tipstaff will de-K.'s Bench. mand 10 s. for carrying the Defendant over, and you must agree with the Officer as cheap as you can for bringing him to the Judge's Chamber.

If the Defendant be in the Custody of a *Newgate*, Bailiff, or in *Newgate*, and would be turned over to the *King's Bench*, the Practice is the same; you deliver a *Habeas Corpus* directed to the Sheriff of *Middlesex*, and he will search his Office what Writs he hath against the Defendant, and make Return of them, and then the Officer or Keeper of *Newgate* will carry the Defendant to the Judge's Chamber, and he will be turned over before the Judge in Manner aforesaid : You must take Notice with what Writs the Defendant is charged ; for if it should be only with a *Common Pleas* Writ, then you cannot turn him over to the *King's Bench*, without charging him with an Action out of the *King's Bench* ; so that you must make a Bill of *Middlesex*, or an Attachment of Privilege returnable in the *King's Bench*, and carry it to the Sheriff, and he will charge the Defendant in Custody, and return that Action with the other.

And the same Course is taken to remove a Prisoner from the *Fleet* to the *King's Bench*, only the Warden of the *Fleet* will often stand out two *Habeas Corpus*'s at least, before he will part with his Prisoner, and will also insist on being paid his Prison-Fees, before he brings up the Prisoner ; but a Judge on a Summons will oblige

K.'s Bench. the Warden to bring up the Prisoner without them.

Note, Before you deliver your Habeas Corpus, it is fit to speak to a Waiter, if the Defendant be in the Fleet, to carry him to the Judge's Chamber and agree with him, and also to provide a Tipstaff in Readiness; and many do go to the Marshal and treat with him for Chamber-Rent, and sometimes for the Defendant's Liberty, upon Security, before they carry him over.

Procedendo.

Before this Writ is sued Gorgius, (sc.) Majori Aldoris & Vic
London sacram Licet vobis per breve
forth, be sure nostrum nuper precepimus quod Corpus C.D.
to search all in Prisona nostra sub Custod v'r'a ut dices
the Judges bat detent sub salvo & secur' conduct unacum
Chambers, die & causa captio*n* & detenc*n* sue quocunq*n*
and ask the nomine idem C. censeat in ead habaretis co-
Clerks if ram dilecto & fidei nostro R. Raymond Mil
they have no Capital Justic no'co ad Plita in Curia no-
Bails by stra coram nobis tenend assign apud Came-
them, that ram suam situat in le Serjeants-Inn in
are not en- Fleet-Street, London [or coram A. B. Mil
tered: You in Vac' 7s. 8d. und] Justic nostrum ad Placita in Curia no-
pay signing stra coram nobis tenend assign apud Came-
in Vac' 7s. 8d. rā sua situat, (sc.)] immediate post recept*n*
Sealing 7 d. istius brevis [or haberetis coram nobis apud
Westm die —— sc. as the Return was in
Hab' Corp'] ad faciend & recipiend ea omnia
& singula que idem Justic nostr [or que Cur
nosc coram nobis] de eo adiunc & ibidem
cons

cons' in ea parte Tamen certis de causis nos K.'s Bench.
 jam in Cur' n'r'a cozam nobis specialit mo-
 ven' vobis & cuilibet v'rum precipimus quod
 in quibuscumque querelis sive sectis versus ip-
 sum C. ad sectam A. B. in Cur' n'r'a cozam vo-
 bis seu aliquo v'rm levat sive affimat vel
 cozam vobis seu aliquo v'rum jam pendent
 indeterminat cum ea celeritate qua poteritis
 talit procedatis qualit secundum Legem &
 const Regni nostri Angl [vel * Civit n're * This Clause
 Lond p'd] fore videritis procedend brevi n'r'o p'd is to be put
 vobis inde prius direct in contrar in aliquo in when it is
 non obstat Teste, &c. (ut in al.) London.

Procedendo super Certiorari.

Georgius, &c. saltēt Cum vobis p' breve
 volen' de quadam Billa Original, &c. [reci-
 ting the Certiorari in such Manner as the
 Habeas Corpus is before recited] cozam nos
 vis die — (et.) unacum brevi illo ut ul-
 tius inde fieri facheremus prout de Jure fore
 viderimus faciens tamen certis de causis nos
 jam in Curia n'r'a cozam nobis moven' vobis
 & cuilibet vestrum precipimus quod tam in
 Querel p'd vers p'fat C. in Curia no'r'a cozam
 vobis seu aliquo vestrum levat ad sectam p'd
 A. quam in Attachment superinde fact in
 manibus & custod E. R. cum ea celeritate qua
 poteritis talit procedatis qualit secundum Le-
 gem & consuetudinem civit nostr' p'd fore vi-
 deritis procedend (brevi nostro de Certiorari
 p'd vobis prius inde in contrar direct in ali-
 quo non obstat) Teste, &c.

Procedend' super Bre' de Latitat.

Georgius (sc.) Vic London saltem
Cum Vic nostro Middx nuper p-
cepimus quod caperet C. D. si invent' fuisset in balliva sua & eum salvo custod ita
quod heret corpus ejus coram nobis apud
Westm Ad certum diem jam preterit — ad
respondend A. B. de placito Transge
(or as the Cause of Action was in
the Latitat) Oculque Vic' nr' Middx
ad diem ill' nob' record quod pdict C. non
fuit invent' in balliva sua sup qao ex parte pdict A. in Cur' n'r'a coram nobis suf-
ficienter testatum fuerit quod pdict C. La-
tit & discur in Civitat' nr' London (or
the County to which the Latitat was
directed) Nobisq supinde nup pcepimus
quod caperetis et si invent fuisset in Balli-
va vestra & eum salvo custod ita quod ha-
beretis corpus ejus coram nobis apud Westm

* As in the
Latit'

die * prox' post _____
ad respond' pfa A. de plito pdict Jamque
in eadem curia n'r'a coram nobis ex parte
H. L. accepimus quod vos in quadam ques-
ret int ipsum H. & pdict C. in Cur' n'r'a
coram vobis pfa Vic' pendend indetermi-
nat' procedere octone die huius n'r'i distus
listis & adhuc dissertis in ipsius H. grave
dampnū Et nos in hac parte fieri volen
quod est sustum vobis pcipimus quod in
quibuscumque Querelis versus ipsum C. ad
seccam

lectam pdic̄t H. L. coram vobis seu aliquo K.'s Bench.
 vestrum affirmat & coram vobis seu aliquo
 vestrum jam pendit indeterminat' cum ea
 celeritate qua poteritis talic' procedatis
 qualit' secundū Legem & consuet' Civit'
 nre Londoni fore videritis pcedend (brevi
 n'rō pdic̄t vobis prius inde nuper diceci' in
 aliquo non obstante) Teste, &c.

Of Scire Facias.

*Scire facias in debito post annum & diem, to
 revive a Judgment.*

Gorgius, &c. Vic' Midd saltēt Cum
 A. B. Gen̄ nuper in Cur' nostr' co-
 ram nobis apud Westm̄ p bill sine bri-
 n'rō ac p Judic' ejusdem Cur' recuperavit
 vers C. D. Gen̄ als dict' (&c.) ducent'
 Libras de Debo neenon tres Libr̄ pro damp^s You Sign and
 nis suis que sustinuit tam occōne deten- Seal this
 ēonis debiti illius quam pro mis^f & custag^g king out and
 suis p ipm̄ circa Sectam suam in ea par- leaving a
 te appōit' unde idem C. D. convict' est si Precipe at
 cut nobis constat de Recordo Iamque ex the Office.
 parte pdic̄t A. in eadem Cur' n'rā coram Signing i.e.
 nobis accepimus quod licet Judicū inde Sealing 7 d.
 reddit' sic Executio tamen de debito &
 dampnis pdic̄t sibi adhuc restat faciens Un-
 de nobis supplicavit idem A. sibi de reme-
 dio suo congruo in hac parte provideri Et
 nos in hac parte fieri volentes quod est
 Justum tibi p̄cipimus quod p probos &
 legales homines de balliva tua Scire
 fac³

K.'s Bench. fac' * p̄fāt C. D. Quod sit coram nobis as-
 pud Westm die prox' post
 * If a Scire ad ostend si quid pro se heat vel dicere
 fa' against sciat quare poict A. Execution suam ver-
 Tertenants, sus eum de debito & dampnis poict habere
 (then say as non debeat surta vim formam & effectum
 before usque) recuperacion p̄dict si libi viderit expedir'
 Tibi præcipi- & ulterius ad fac' & recipiend quod eadem
 mus quod per probos & lega- Cur nostra coram Hob de eo adtunc &
 les homines de ibidem Cons' in hac parte Et habeas
 balliva tua ibi tunc nomina eorum p̄ quos ei Scir'
 Scire fac' te- fac' & hoc W̄d Teste R. Raymond sc.
 non' omnium
 terrar' & ten-
 tor' que fuer'
 p̄rad' C. die--
 prox' post—
 Anno Regni
 nostri quo die

Ventris.

Judic' p̄ d' reddit. sicut vel unquam postea in balliva tua quod sent coram
 nobis apud Westm die — prox post — ad ostend' (&c.) quare debitum
 & dampna p̄ d' de Terris & Tenement ill. fieri & p̄fad. A reddi
 non debeant juxta vim formam & effect. recuperation' p̄ d' si (&c.) Et
 ulterius ad faciend' & recipiend' quod eadem Cur' nostra coram nobis de
 eis adtunc & ibidem cons. in hac parte. Et habeas, &c. (as in others.)

Sci' Fac' in Case on Assumpſit post Annum & diem.

Georgius (xc.) Vic' S. lastem Cum A.
 B. nuper in Cur' n'rā coram nobis apud
 Westm p̄ Willam sine bri n'rō ac p̄ Jus-
 dicū esudem Cur' recuperavit vers' C. D.
 20 l. p̄ dampnis suis que sustinuit tam oc-
 casione non p̄formacon quarundam promiss-

* Inserting sion & assumpcon p̄ ip'm C. eidem A. nup-
 Dampn' Miss' fact' quam pro mis' & custag' suis p̄ ip'm
 & Custag' in- circa sectam suam in ea parte apposuit' un-
 stead of De- bito & Damp- de, &c. (* as before.) Sci' Fac'
 bito & Damp- nis.

Sci' Fac' in Transgress' sur Case.

Georgius, &c. (as before usque) recuperabit versus C. D. 20 l. pro dampnis suis que sustinuit tam occone cususdam Transgress' super Casum p ipsum C. eidem A. nuper illat quam p mis', (sc. as before.)

Sci' Fac' in Transgress'.

Georgius, (sc. ut antea usque) recuperabit versus C. D. 20 l. pro dampnis suis que sustinuit tam occone cususdam Transgress' per eundem C. eidem A. nuper fact' quam p mis', &c.

This Writ of *Scire Facias* was given by the Statute of Westm. 2. c. 45. and before that Statute, if the Plaintiff had not taken out his Execution upon a Judgment against the Defendant, within a Year and Day, he had no Remedy, but a new Action of Debt on his Judgment; but now this *Scire Facias* may be sued out to revive it; but it must be directed into the County, where the Original Action was brought.

The Writ of *Scire Facias* after a Year and a Day may be had of Course against the Defendant without Motion, but if the Judgment be above Seven Years, and not above Ten Years old, you may have a Rule at the Side-Bar, for a *Scire Facias* to

K's Bench. revive it; but if it be above Ten Years Standing, the Plaintiff must move the Court to obtain a Rule for a *Scire Facias* before he can be able to make out such Writ, and in order to obtain such Rule, there must be an *Affidavit* of the Debts being unsatisfied, and the Judgment not vacated, and that the Defendant is living; and then the Court will grant you a Rule accordingly.

If the Plaintiff takes Execution within the Year, and it is not served, yet he may continue the same upon the Roll from Term to Term, till it is served, and need not sue out any *Scire Facias*.

If the Defendant appear to this Writ of *Scire Facias*, and can shew good Cause as a Release, Satisfaction or any other just Cause, he may plead it in Discharge.

If the Sheriff return *Scire Feci*, and the Defendant upon the Return of the said *Scire Feci*, do not forthwith appear, and plead after a Rule given with the Clerk of the Rules is out, the Plaintiff shall have present Execution.

Vide post. the Entry of the Judgment.

But if the Sheriff return a *Nihil habet* upon the *Scire Facias*, you must give him an *Alias Scire Facias*, and get it returned in the same Manner. And each *Scire Facias* must lay Four Days at least in the Office, before their respective Returns; and there must be Eight Days distant between the *Teste* and Return of each *Scire Facias*. The First must be returned before the Second

is

is made out, and the Second tested the K.'s Bench.
Day of the Return of the First.

If there are not Eight Days distant between the *Teste* and Return of each *Scire Facias*, the Court may quash them on a Motion, or the Defendant may demur thereunto. *I Lutw. 25. Salk. 599.*

When you have Two *Nibils* returned it amounts to a *Scire Feci*, and the Plaintiff may (after he hath given a Rule as before on the *Alias Scire Fac'*, which is of Four Days) enter up Judgment of Course, and sue out what Execution he pleaseth. *Vide post.* the Entry of such Judgment.

Note, If you do not proceed upon a *Scire Facias* within a Year and a Day after it was taken out, you cannot, after that, proceed upon that Writ, but must sue out a new *Scire Facias*; (for the old Writ is discontinued) and it must be directed into the County where the Original Action was brought.

Where either Plaintiff or Defendant, or one of the Plaintiffs, or one of the Defendants die, there cannot be any Execution sued out upon the Judgment, until a *Scire Facias* sued out by the Heirs, Executors or Administrators, and Judgment thereupon. *Style's Pract. Reg. 499.*

Vide post. *Scire Facias* against the Bail and the Entry thereof, with the Method of proceeding against them.

K.'s Bench.

Entry of two *Scire fac'*, with two *Nihils*
returned; and Judgment by Default.

Dominus Rex mand' Vic London breve
suum cl'm in hec verba s. Georgius
Dei Grā, &c. (reciting the Writ of *Scire
Fac* verbatim and adding the *Teste*) Test'
R. Raymond Mil apud Westm 12 die
Junii anno Regni nostri duodecimo Ad quē
diem the Return in the First Writ coram
Domino Rege apud Westm venit pdict
(quer) in propria persona sua Et Vic L. vi-
delt A. B. Mil & C. D. Mil ad diem ille
ult menconat retorū quod pdict (Def.)
Nihil habuit in Wallia sua ubi aut per qđ
ei Scire Fac potuer nec est invent in eadem
Et pdict (Def.) non venit Jo sicut als pre-
cept est Vic London quod p pbos, (&c.)
Scire Fac pfat (Def.) quod sit coram dict
Domino Rege apud Westm die Mercur
pr post tres Sept Sanci Mich (Return
of the Alias Scire Facias) ad ostend in
forma pdict si, &c. Et ulterius, &c. Idem
dies ult menconat dat est pfat (quer) ibide,
&c. Ad quem diem ult menconat coram dict
Domino Rege apud Westm pdict venit pd
(quer) in ppria persona sua Et pdict Vic
London ut prius retorū quod pdict (Def.)
nihil habuit in Wallia sua ubi aut per quod
ei Scire Facere potuer nec est invent in eas
Et pdict (Def.) ad eund diem ult menconat
solempniter exact' non venit sed defalt see Jo
conz est qđ pd H. heat Execucon versus pd
the Defendant de debito & dampnis pd juxta
vim formam & effectum Recuper' pd, &c.

Execuō

*Executio per Defalt' sur Scire feci, upon a
Scire fac' post Annum & Diem.*

Dominus Re却 mand, &c. (reciting the Writ as before) Ad quem diem the Return in the Writ coram Domino Rege apud Westm' vñ pð (quer) in ppria persona sua & Vic C. videt A. B. At ad diem ill' ult menconat ref quod ipse virtute hris pð sibi direct Scire fecit pð (Def.) per D. E. & F. G. pðbos & legales homines de ballia sua qd sit coram Domino Rege ad diem & locum pdict ad ostend, &c. put interius sibi pcept fuit Et pdict (Def.) sic pðmonit & ad eundem diem ult menconat solemnit exact' non vñ sed defalt see Jo cons est Quod pð Quer heat Execuçōd versus eum de debito & dampnū pð surta vim formam & effectum Recuperat pð, &c.

Entry of *Scire Facias* against Executors after two *Nibils* returned, Defendant appears by Attorney, and pleads *Nul record*.

Dominus Re却 mand, &c. (as before to the End of the Return of the second *Scire fac'*, viz.) Et pdict Vic M. pdict ut prius Re却 quod pdict B. Nichil habet in Balliva sua ubi aut per quod Scire facere potuit nec est invent in eadem Et pdict B. ad eundem diem ult menconat solemnit exact' p J. S. At suum similiter vñ Et super hoc pdict E. ut prius per Execuçōd versus pres

K.'s Bench. sat B. de debit' & dampnū pdict sibi adsudicari, &c. Et pdict B. dic' quod pdict E. Execu^{cō}nū suam versus eum de debito & dampnū predict habere non debet Quia dicit quod non h̄ec aliquod t̄kē Record Recupera^{cō}nū debi & dampnorū predict qual per breve pdict superius supponitur Et hoc parat est verificare Unde pet Judic si pdict E. Execu^{cō}nū suam versus eum de debito & dampnū pō here debeat, &c.

Et predict E. dic' quod ipse per aliqua per pdict B. superius placitando allegat ab Execuc sua versus eum de debito & dampnū pdict' habend pcludi non debet Quia dic' quod het t̄kē Recordum Recupera^{cō}nū debiti & dampnū pdict quale per Breve pō superius supponit put patet Termino . . .

. . . . Anno Regni Domini Georgii nunc Regis Magne Britannie Rollo Et hoc parat est verificare per Record illud Et pet quod Termīnū & Rotul ille per Cur Domini Regis hic videant & inspiciant Et quia Cur dicti Domini Regis nunc hic de Judicio suo de & super p̄mis reddens nondū advisat Dies inde dat est partibus predictoꝝam Domino Rege apud Westm usque diem px' post de judicio suo de Exiſt ille audiend Go quod Cur dicti Domini Regis hic inde nondum, &c.

Note, The Master is to sign Judgment upon the Rolls.

Sci' Fac' versus Executor' super Judic' recuperat' in vita Testatoris.

Georgius, (sc.) Vix S. saltet Cum
A. B. nuper in Cur' n're (sc. as before) sicut nobis constat de Recordo posteaque scit
Anno, (sc. ____) pdic' C. apud D. in Com' tuo condidit testamentum & ult voluntat sua in scriptis & constituit E. F. Executorem Tex'ci sui pdic' posteaque ibidem obiit post cuius mortem pdic' E. F. onus Executon' Tex'ci sui pdic' super se suscepit ac Tex'tum illud debita Juris forma probabit ac jam ex parte pdic' A. in Cur' n're coram nobis accepimus quod licet Ius die inde reddit sit Executo tamen de debito & dampn' predict' sibi adhuc restat faciendo Unde nobis supplicavit idem A. sibi de remedio suo in hac parte pvideri Et nos in hac parte fieri volen' quod est iustum tibi precipimus quod p' pbos, (sc.) Sed Fac p'sat E. F. quod sit coram nobis die, (sc.) ad ostend' si quid pro se habeat vel dicere sciat quare predict' A. Executon' suam de bonis & catallis que fuer' pdic' C. D. tempore mortis sue in manibus suis administrand' habere non debeat sursum form' & effectum Recuperacion' p' si sibi, (sc.) Et ulterius ad fatur', (sc.) Et habeas, (sc. ut in al'.)

K.'s Bench.

*Scire Fac' versus Adm' sur Judic' recuperat'
versus Intestat'.*

Georgius, (sc. as before usque) sicut nobis constat de Recordo posteaque scil die—
(sc.) predict' C. apud D. in Coram tuo obiit intestat post eius mortem Administrat omnium & singulorum bonorum catalogorum iurium & creditorum que fuer predia' C. tempore mortis sue p——cui commissio Administracioni predict in hac parte de Jure p-

* There is no tñuit cuidam C. C. Vbi——die * Anno
need to men- Regni nostri——apud——predia' deb su-
tion the Day ris forma commis fuit Ac iam ex parte, (sc.
or Year. as last before to the End)

Note, If the Judgment was had against Executor or Administrator, then the Judgment must be entred thus:

_____ de bonis & catallis que fuer pred Testat (vel Intest') in manibus predia' Executor' (vel Administrat) administrans si tantum in manibus suis habeat & si tantum in manibus suis non habeat tunc dampna poena' de bonis & catallis ipsius (Executor' vel Administrato') ppteris administrand, (sc.)

Scire Facias against the Bail.

Next we shall shew the Method of proceeding against the Bail by *Scire Facias*, with the Forms and Entries thereof.

Where Bail are put in to an Action brought in this Court, the *Scire Facias* against them must be always sued out into Middlesex, because all Bails to Actions are supposed to be taken in Court which is in Middlesex.

But in Case of a Recognisance entered into by Bail upon a Writ of Error, if it be entered to be taken at a Judge's Chamber in London, then the *Scire Fac'* must be there sued out. *Style's Reg.* 499.

There must also be Eight Days inclusive between the *Teste* and Return of each *Scire Facias* against the Bail, and not one of them Four or Five Days, and the other Twelve — And each *Scire Facias* must lay Four Days at least in the Sheriff's Office, before their respective Returns; or you need have but one *Scire Facias*, if a *Scire Feci* be returned thereupon by the Sheriff.

But first, Before a *Scire Facias* issues to the Bail, there must be a *Cap' ad satisfac'* directed into the County where the Action is laid against the principal Defendant, and a *Non est inventus* returned upon it.

K.'s Bench. Also there must be Eight Days exclusive between the Teste and Return of such Capias ad satisfaciend' to warrant a *Scire Facias* against Bail, and the Capias must lay in the Sheriff's Office Four Days exclusive, before the Return be out. *Salk. 559.*

After the Return of it by *Non est inventus*, and filed, you make out the *Scire Facias*, as is hereafter set forth, and the Entry thereupon.

Note, That if the Defendant does not render himself before or upon the Day of the Return of the *Scire Facias* with a *Scire Feci*, or before or upon the Return-Day of the Second *Scire Facias* he can never do it after ; and you give a Rule of Course with the Clerk of the Rules after the Return of the *Sci' Feci*, or the 2d *Sci' Fa'*; and if the Defendant do not plead before the Rule is out, you may have a *Fi' Fa'* or an *Eleg'* against the Bail, and enter the Judgment on the Roll, as *vide post*. But it is said, that to entitle your self to a *Ca' sa'* against the Bail, you must first sue out a *Fieri facias*, and get a *Nulla bona* returned thereupon.

If the Defendant is surrendred in Time, as aforesaid, you must enter such Surrender in the Marshal's Book, with Mr. *Lanzrow*, the Clerk of the Docketts, and give the Plaintiff's Attorney Notice of such Surrender in Writing.— Then take the Bail-Piece from the Judge's Chamber, if it was not before filed ; and afterwards apply to the Clerk of the Papers of the King's Bench Prison for a Certificate of the Defendant's Surrender, and then car-

ry the Bail-Piece with the Certificate to K.'s Bench. the Master of the King's Bench Office, and he will mark an *Exoneretur* on the Bail Piece, and then deliver it to Mr. Hawley, Signer of the *Latitats*, and he will file it, and so the Bail are entirely discharged.

Note, If the Defendant dies before the Return of the *Scire Feci*, or of the Second *Scire Facias*, the Bail are discharged by his Death, and upon a Motion, the Court will grant a Rule accordingly.

You must enter the First *Scire Facias* on the Roll, of that Term when the First *Scire Facias* is returnable; and so award your other *Scire Fac'* on the same Roll and continue the Proceedings and Pleadings, if any, till Judgment be enter'd, all on the same Roll — And if the Plaintiff please, he may levy Part of the Debt upon the Defendant's Goods first, and after resort back to the Bail for the Residue: But if he take the Defendant's Body in Execution, he cannot meddle with the Bail at all.

Sci' Fac' versus Manucapt' in Debito.

Georgius, (sc.) Uic M. saltēt Cum A. B.
nuper in Cur' nostra coram nobis apud
Westm per Billam sine brevi n'ro, (sc. as
in Debt usque) sicut nobis constat de Recor'd
Iamque ex parte pdict A. B. in Curia nostra
coram nobis accepimus licet Judicium inde
reddid sit Execuço tamen de debito & dampnū
predict sibi adhuc restat faciend Cumque E. F.

K.'s Bench de, (sc.) Gen & G. H. de eod Arm als
 sciri * Term Sancti Michis Anno Regni
 * The Term nostri quarto in ead Curia nostra coram nobis
 the Bail apud Westm plonalit vel & deven pleg &
 was put in, Manucapt & uterque eorum per se deven
 take Care pleg & Manucapt p' pdict C. D. quod si
 that the Names and conting pdict C. D. in plito pdict convinci
 Additions of tunc iidem Manucapt concesser & uterque eo-
 the Bail are rum p' se concessit tam debitum pd quo omnia
 exactly the humoi dampna mis & custag que psaf A. B.
 same in the in ea parte adjudicarent' de terris & catallis
 Writ as are on the Bail suis p'priis & eorum utriusq fieri & ad opus &
 Piece taken usum ipsius A. B. levati si contingenteret pdict
 before the C. D. debitum & dampna mis & custag ilk
 Judge.

Quere, If the prefat A. B. mihi solvere aut le Prisone Mar-
Bail was ta- Maresc nostre coram nobis ea occone non
ken after the reddere predict tamen C. D. debitum & damp'
Continu- mis & custag pdict prefat A. B. nondum sol-
ance-Day, if it is not Bail vit nec scriplum Prisone Mar Maresc nostre
of the suc- coram nobis reddidit secundum formam & es-
ceeding secum Recogid pred put ex insinuatione pres-
Term, and if dicit A. B. in Curia nostra coram nobis acce-
it must not pimus Unde nobis supplicabit idem A. B. si
be so menti- bi de remedio congruo in hac parte p'videri
oned in the sci' fac'. Et nos in hac parte fieri volen' quod est ju-

One Sci' Fa' stum tibi precipimus quod p' p'bos & legales
with Notice hoies de baillia tua Sci fac prefat E. F. &
sufficient. G. H. quod sine coram nobis apud Westm
die ————— pr' post ————— Ad ostendit
quid p' se habeant vel dicere sciant quare pre-
dicit A. B. Execucon' suam versus eos de de-
bito & dampn' predict habere non debeat
suxta vim form' & effectum Recogid pd si sibi
p'viderit expediri Et ulterius faciat & recepit
ea omnia & singula que eadem Curia nra
coram nobis de eis adiunc & ibidem con-

sideraverit in hac parte Et heas ibi tunc no- K.'s Bench.
mina eorum p quos eis Scd fec^e Et hoc b^rg^d 
Teste, (sc.)

Scire Fac' in Case against the Bail.

Georgius, (sc.) Cum A. B. nuper in
Cur^r n'r'a (ut supra) recuperavit versus C. D.
centum libr^r p dampn^d suis que sustinuit tam
occone non pformacion^d quarundam pmission^d
& assumpcio^d eid A. p pfa^t C. nup fact' qua
p mis^r & custag suis p ipsum circa lectam sus
am, (sc. as in Debt usque) constat de Recor
do Ac licet, (sc.) Cumque, (sc. as before)
to the End, only instead of debum damp
num mis^r & custag', you only say, dampn^d
mis^r & custag'.

Before you make out *Scire Fac'* against
the Bail, see that the Declaration be
entred upon the Rolls at Westminster
of the same Term the Declaration
was of; and after the Declaration is
entred *verbatim*, you must enter up
the Recognizance against the Bail
thus in Case, (viz.)

Et pdict^r (Def.) p ————— Attornatum
suum ven^r & defend^r vim & injur^r quando,
sc. & sup hoc coram Domino Rege apud
Westm^d ven^r the Bail, with their Additions,
in ppris plonis suis & devener pleg' & ma
nuapt & uterque eorum p se devenit pleg' &
manuapt p pdict^r Def. quod si conting' eun
dem Def. in plico pdict^r convinci tunc iidem
manuapt

K.'s "encl. manuapt concesser' & uterque eorum p se
concessit omnia hujusmodi dampna mis & cu-
stagi que pfaſt Quer' in hac parte adjudica-
rentur de terris & catallis suis & eorum utri-
usque fieri & ad opus pdict Quer' levare &
conting' eundem Def. dampna mis & custagi
ill' pfaſt Quer' mis solvere aut se Prisone
Mareſc Domini Regis coram iplo Rege ea
occione non reddere.

Some enter this Recognizance with an
Imparlace, which ought to be but in
some special Cases; for Bail may be gi-
ven after an Issue joined, and after the
Recognizance is entered up.

The Entry of Two Sci' Fa' against Bail
per Defalt' in Case.

Dominus Reꝝ mandat Wic Midd breve
suum clausum in het verba; s. Geor-
gius, (x.) (reciting the Writ of Sci' Fac
verbatim, and adding the Teste) Teste
R. R. Mil apud Westm 12 die Junii anno
Regni nostri duodecimo ad quem diem Mac-
tis the Return in the Scire Facias coram
Domino Rege apud Westm vñ pð (Quer.)
in propria persona sua & Wic Com Midd pdict
videlicet A. B. Mil & C. D. Mil ad diem illę
ult menconat retorū quod pdict (the Bail)
nihil habuer nec eorum aliquid habuit in
balkia sua ubi aut p quod eis seu eorum alteri
Sci' Fac potuit Et quod pð (the Bail) non
fuer nec aliquid eorum fuit invent in eadem &
pð (the Bail) non vñ nec aliquid eorum vñ sicut

sicut als p̄cepit est Vic Com Midd quod K.'s Bench.
 p̄ pos & legales homines de balliva tua Sc̄d
 Faē p̄sat the Bail quod s̄nt eozam Dominio
 Rege apud Westm die Veneris the Return
 in the Second Sc̄d Faē ad ostendend in form
 p̄ si, sc. Et ulterius, sc. idem dies ult
 menconat dat est p̄sat Quer ibm, sc. ad
 quem diem ult menconat eozam dicto Domi
 no Rege apud Westm p̄o vei p̄o Quer in
 ppria plona sua Et p̄o Vic Com Midd p̄dict
 ut prius retorū quod p̄ed (the Bail) nihil
 habuer nec eozum alter aliquid habuit in
 balliva sua ubi aut p̄ quod eis seu eozum
 alteri Sc̄d Faē potuit Et quod p̄o the Bail
 non fuer nec alter eozum fuit invent in
 eadem Et p̄ed (the Bail) non vener nec
 alter eozum venit sed defalt — Jo
 Cons̄t est quod p̄dict Quer habeat Execu- Executio
 tōn suam versus (the Bail) & utrumque adjud.
 eozum de dampnis mis & custag' p̄o juxta
 vim formam & effectum recogn p̄dict per Defalt.
 ipsozum the Bail defalt.

See Pleas for the Bail to the Scire Facias
 at the End of the Errors.

Of superseding Actions, and the Forms of the Supersedeas's.

By Rule of Court made Trin. 2 Georgii
 Regis, it is ordered, That if any Defendant
 shall be committed to the Custody of the
 Marshal of this Court, or shall be charged in
 Custody of the said Marshal; or shall be arrest
 ed and committed (by Virtue of the Process of
 this

K.'s Bench, this Court) to the Custody of any Sheriff or other Officer whatsoever, at the Suit of any Plaintiff; and shall so remain in Custody two Terms, and the Plaintiff shall not declare against such Defendant in that Time; then such Defendant after the End of the Second Term, after such Imprisonment, shall be discharged out of the Prison, in which he was so detained, upon filing Common Bail to be signed by one of the Judges of this Court without giving Notice to the Plaintiff or his Attorney— And if any Plaintiff shall declare against such Defendant, a Prisoner in Custody of the Marshal of this Court, or any Sheriff or other Officer, and shall not proceed to Trial or Judgment within Three Terms next after such Declaration delivered; or if any Plaintiff shall obtain Judgment in this Court in any Action against such Defendant remaining in Prison, and shall not charge him in Execution upon Judgment so obtained within two Terms next after such Judgment so had and obtained, then such Defendant so remaining in Prison may file Bail or prosecute a Writ of Supersedeas out of this Court for his Discharge out of Custody, to be allowed by one of the Judges of this Court, if the Plaintiff or his Attorney on Notice to one of them given, by the Defendant's Attorney (and Affidavit made of such Notice) shall not appear before the said Justice and shew Cause against filing Bail or obtaining such Writ of Supersedeas.

To be entitled to the Writ of *Supersedeas* you must get a Certificate from the Sheriff in whose Custody the Defendant is, that there is no Declaration delivered against him in his Custody, or *Habeas Corpus* brought; and then get a Certificate from the Clerk of the Declarations at the King's Bench Office, that no Declaration is filed: Afterwards make out a common Bail-Piece with this Addition, *Quia Quer' non narravit infra duos Terminos fiat breve de Supersedeas*, which the Judge signs, and is the Authority for the Signing the Writ; And at the same Time you sign the Writ, you file the Certificates; then seal and carry the Writ to the Sheriff, who thereupon will make out a Discharge for the Defendant to the Keeper of the Prison.

If the Defendant be in Custody of the Marshal of the King's Bench Prison, and no Declaration delivered within Two Terms, you get a Certificate thereof from the Clerk of the Papers of the King's Bench Prison, and from the Clerk of the Declarations, and thereupon a Judge will order common Bail to be filed; and upon a Certificate thereof, the Marshal will discharge the Defendant without a *Supersedeas*.

If a Declaration hath been delivered against a Defendant in Custody of any Sheriff or other Officer, and no further Proceedings had according to the Rule; then upon taking out, and serving on the Plaintiff's Attorney a Summons from a Judge

K.'s Bench Judge to shew Cause why a Writ of *Supersedeas* should not be granted to discharge the Defendant out of Custody, for Want of Prosecution ; the Judge will, if Cause be not shewn to the Contrary, order such Writ accordingly, on filing Common Bail.

But if a Defendant be in Custody of the Marshal, and no Prosecution as before ; then on a Summons and Service thereof, and no Cause being shewn to the Contrary ; the Judge will order the Defendant to be discharged on filing Common Bail without any Writ of *Supersedeas*.

Supersedeas for not declaring in Two Terms.

A *Supersedeas* is a Writ to command or request the Parties to whom it is directed, to stay or forbear the Doing of that which in Appearance of Law might be done, were it not for the Cause whereupon the Writ is granted.

Gorgius, (sc.) Uic S. salutem Cum tibi p breve nostrum nup pcepimus quod capes A. B. si invent foret in balliva tua Et eum salvo custos ita quod haberet Corpus ejus coram nobis apud Westm die pr' post ult pterit ad respondens F. G. Cen de p'ito transgr acetiam Ville ipsius F. versus ipsum A. p centum & viginti Libris de debo secundum Cons Cur nostre coram nobis exhibend & quia idem F. non narrabit versus ipsum A. infra duos Termi-

cooram nobis venit & imposuit commune ballium ad sectam pdict F. in p'ito predict Ideo tibi precipimus quod de ulterius capiendo pres A. attachiand & imprisionand seu ipsum ea occione aliquant molestan ad sectam pres F.

in lecta predict omnino Supledeas & si ipsum K.'s Bench.
ea occasione & non alia cepisti & in prisiona
detineas tunc ipsum A. e prisiona qua sic de-
tinetur sine dilatione deliberari facias piculo
incumben' Teste R. R. Mil apud Westm,
sc.

*Supersedeas upon the Defendant's Filing
Common Bail by Order of a Judge.*

Georgius, (sc.) Uic Midd salutem Cid
tibi nup precept fuit quod capes Mar-
tham N. si invent fuerit in balliva tua ita
quod haberet Corpus ejus coram nobis apud
Westm die _____ pr' post _____ ad re-
spons J. K. de plito transgr ac etiam bille
ipsius J. K. vers ipsi M. N. p 100 l. sup as-
sumptionem secundum cons Cur nostre coram
nobis exhibend Et quia eadam Martha venit
in Curia nostra coram nobis & imposuit com-
mune Wallium ad lectam prefat J. in plito
& bille predict Ideo tibi precipimus quod de-
capiend predict Marcham attachiand impris-
sonand seu ipsam ea occasione aliqualiter mos-
test and omnino Supledeas & si ipsam Mar-
tham ea occasione & non alia cepisti & in Pris-
ona detineas tunc ipsam Marcham e Priso-
na qua sic detinetur sine dilatione deliberari
fac piculo incumbente Teste R. R. Mil apud
Westm, sc.

If a privileged Person, as an Attorney,
&c. is sued in any Jurisdiction For-
eign to his Privilege, he may have a Su-
persedeas.

Superfedeas pro uno Clerico capital' Clerici.

Gorgius, (sc.) Majori Aldermannis & Vic' nostris Londoni salutem Cum tam ex dignitate nostra Regia quam ex Consuetudine antiqua secundum eandem retract' temporibus usitata & approbat hucusque fuerit obtent quod omnes & singuli capitale Clerici nostri ad placita in Curia nostra coram nobis irrotulando assignd & eorum Clerici a tempore existent alibi quam in Curia nostra coram nobis ad respondend coram aliis quibus Iudicibus seculat sup aliquibus placitis seu querel (placitis de libero tenendo duntarant except) trahi seu compelli non debeant nec a toto tempore supdict consuever Jamq ex Parte R. G. Gen' un' Clericorum R. H. His capital' Clerici nostri ad placita in Curia nostra coram nobis irrotulando accepimus Quod dignitat & consuetud pdic' non obstat quidam malevoli dignitat & consueuit pdic' parbi pendeit pd R. G. in Curia nostra coram vobis ptertu divers' Querel coram vobis versus eund' R. levat crarer in plicum In dignitat nostre & cons' pdic' lesionem & enervationem manifest' ac ejusdem R. dispendium non modicum & gravamen Quod si pmittitur aliis imposterum cederet in exemplam pnciosid Nobis igitur pcpimus firmit' injungen' qd de ulterius pcedend coram vobis seu aliquo vestrum in Querel pdic' seu aliqua eaurum Supsedeas & quilibet vestrum Supsed omnia dicentes partibus in eisdem Querelis coram

etiam vobis in forma predicta psequens quod ad K. s Bench.
Curiam nostram coram nobis accedant Justi-
ciam ibi in ea parte consecut si sibi viderit
expedire Teste, (sc.)

Supersedeas sur Habeas Corpus post Procedendo.

Georgius, (sc.) Magozi Aldermannis &
Vic Londoni factem Licet vobis p breve
nostrum nup pcepimus quod corpus A. B.
in prsona nostra sub custodi vestra ut di-
citur detent sub salvo & secur conduct una-
cum die & causa captionis & detentionis sue
quocunque nomine idem A. censeretur in
eadem habereis coram dilect & fidel nostro
C. D. Mir uid Justice nostrorum ad placita
in Curia nostra coram nobis tenend' as-
signd apud hospicium suu in Serjeant's Inn
in Fleet-Street, London, immediate post
receptionis hys ill ad faciend' & recipiend
ea omnia & singula que idem Justice noll'
de eo adtunc & ibidem cons' in ea parte
Licetque certis de causis nos in Cur' n'r'a
coram nobis specialiter moveid vobis & cuius
libet vestrum nup pcepimus quod in quis-
buscunque Querel' versus ipsum A. ad secr'
E. F. in Cur' nostra coram vobis seu aliquo
vestrum levat sive affirms tam pen-
dend indeterminat cum ea celeritate qua
poteritis talit pcederetis qualit secundum
legem & cons' regni nostri Angl & Cis-
bis nostre Londoni fore videritis Procedend'
(vid n'r'o predict de habend' corpus vobis prius
inde in contrat direct in aliquo non ob-
stant) Et quia predict breve de Procedend' im-

K.'s Bench. pvide emanavit Et quia idem A. in Cus-
 ria nostra cozam nobis invent sufficien Mas-
 nucapt ad respondend pdict E. F. in querel
 pdict' Jo vobis pcpimus quod de omni ul-
 teriori psecucone in querela pdict' virtute
 bvis pdict' de Procedendo omnino supsed'
 sub piculo incubent Teste, (sc.)

* Quare. Note, If the Defendant appear by Supersedeas [as he may without Bail * , tho' the Action be solum] then he enters an Appearance with the Philazer, and you declare against him as by Original, A. B. nup de C. in Com pdict, attach, &c. and the Defendant's Attorney pays the Plaintiff's Attorney 4 d. per Sheet, and 4 d. for every Sheet of the Issue; and all the Writs and Executions are returnable ubique, &c.

Supersedeas pro Def. capt' per nuper Vic' quia imposuit Ballium.

Gorgius, (sc.) Vic N. salutem cum
 nup Vic Com tui p breve nostrum
 nup pcpimus quod caper A. B. si invent fo-
 ret in balfia sua & eum salvo custodiret ita qd
 haberet corpus ejus cozam nobis apud West-
 moni die — pr' post — anno regni
 nostri decimo tertio ad respondend C. D. de
 plito transgrex acetiam bilc ipsius C.
 versus ipsum A. p duodecim Libris de debito
 secundum consuetudinem Cur nostre cozam
 nobis exhibend Et idem A. virtute brevis no-
 stri pdict' captus fuit & in prsona nostra sub
 custodia

custodia tua adhuc detent existit Quia tamen K.'s Bench
 pdic' A. in Curia nostra coram nobis impo-
 suit ballum secundum consuetudinem Curie
 nostre pdice ad respondend pta C. de plico
 & villa pdic' tibi picipimus quod si pdic' A.
 ea occasione & non alia in prisiona nostra sub-
 custod tua detineat tunc ipsum A. e prisiona
 illa qua sic detinet sine dilatione deliberari
 fac & ad largum ire pmittas plico incumbet
 Teste R. R. (sc.)

Ventriss.

Of Declarations.

ALL Actions personal, where no Pos- Actions trans-
 session is awarded, are transitory, sitory,
 and not local, as *Debt*, *Detinue*, *Annuity*,
Account, *Case*, &c. and may be commen-
 ced, and the Declaration laid in such
 County, as the Plaintiff pleases; but the
 Court, on Motion, before the Rules to
 plead are out, will alter the Venue, Affi-
 davit being made that the Cause of Action
 arose in another County.

But all real and mixt Actions, as *Eject-*
ment, *Trespass* quare clausum fregit, *Waste*, Local Acti-
 &c. are local, and are to be laid in the ons.
 County where the Cause of Action arose,
 or where the Lands lie.

In all Actions upon the Case, Tres-
 pass, Assault, Battery, &c. you are not
 obliged to lay the certain Day in your
 Declaration, but you may lay it at any
 Time after the Cause of Action accrued,

K.'s Bench. and before the Essoin-Day of that Term
 the Declaration is of.

But if the Cause of Action arose in that Term you declare of, as it may sometimes happen on a promissory Note, &c. then you confine your Declaration to a certain Day, subsequent to the Cause of Action, by Writing on the Top of your Declaration *Die Lunæ prox' post Quinden' Sancti Martini in Termino Sancti Michaelis Anno decimo tertio Georgii Regis.*

**Upon a Mutuatus for a Judgment by War-
rant of Attorney.**

Mich' Anno decimo tertio Georgii Regis.

*Non informat
per F. G.*

S. II. A. B. queritur de C. D. in custod' ei 100 l. legalis Monete Magni Britan' quas ei debet & injuste detinet p eo viz. Quod cum pdic' C. D. 10 die M. Anno Regni Domini Georgii nunc Regis Magne Britan', sc. duodecimo apud E. in Com' pdic' Mys- tuak fuisset de psat A. pdic' 100 l. solvend' eidem A. cum inde requisit' esset pdic' tamen C. licet sepius requisit', sc. pdic' 100 l. psat A. nondum solvit sed ill' ei hucusque sola vere omio contradixit & adhuc contradic' unde pdic' A. dicit quod ipse deterioriorak est & damp' habet ad valenc 20 l. Et inde pdue lect', sc.

E. p Quer }
G. p Def. } Pleg, sc.

You

You write this Declaration on Paper
stampt with a double Half Crown Stamp.

Make an *Incipitur* on the Roll and the
Clerk of the Dockets will enter and
mark the Declaration and Roll, then the
Master will sign your Judgment, and al-
low you 6*s.* Costs; but before you sign
your Judgment, you must file a common
Bail Piece for the Defendant.

Note, This Judgment must be entred as
others, by Way of *Memorandum* on the
Roll, which is usually of the same Term;
as, *Memorand quod die Mercur' pr' post*
quindenn' Pasch isto eodem Termino coram
Domino Rege, (sc.)

Then you proceed to make your *Fi' Fa'*
or such Writ as is requisite.

A Declaration upon a Bond.

Mich' decimo tertio Georgii Regis.

Midd, sc. B. queritur de C. D. Als † Note, The
A. dict' C. D. de Paroch Sc̄i Alias dict'
 Clementis Dacorum in Com Midd Gei ought to be
 in custod * Mar, sc. de plito quod reddat ei literatim, as in
 centum libras ligalis Monete Magni Britan the Bond, as
 quas ei debet & injuste detinet p eo videat near as may
 Quod cum pdict' C. primo die Junii Anno be resembled
 Regni Domini Georgii nunc Regis Migne Hand.
 Britannie, sc. duodecimo apud pdict' Pa * Or in Cu-
 roch Sc̄i Clementis Dacorum in Com pdict' stod Vic' Com

K.'s Bench. per quoddam Scriptum suum obligator^{is} si-
 gillo iphus C. sigillat Curque dicit Domi-
 ni Regis nunc hic ostens' cuius dat est eisde
 die & anno cognit' se teneri & firmiter obli-
 gari p'sat A. & in p'dict' centum libras sol-
^{† If you de-}
 clare on a vend eidem A. cum inde requisit' esset p'dict'
 Sheriff's tamen C. licet lepius requisit, sc. p'dict'
 Bond not as- centum libras p'sat A. nondum solvit sed
 signed then ill' ei hucusque solvere omnino contradixit
 say cogn' se & adhuc contradicit unde p'dict' A. dicit qd
 teneri, (sc.) A. B. adtunc ipse deterioratus est & dampnum habet ad
 Vic' Com' præ- Valenc' viginti librarum Et inde p'dicit
 dict' existen' sectam, sc.

per nomen A.B.

Arm' Vic' Com'

M. prædict'

but if the

Bond be as-

signed according to the late Act, you declare as Assignee of
 the Sheriff in Manner following.

Pleadwell p' Quer' }
 Cunningham p' Def. } Pleg, sc.

A Declaration upon the Assignment of the Sheriff's Bail-Bond to the Plaintiff according to the Statute 4 & 5 Anne, for Amendment of the Law.

Lond, sc. B. Gen' Assignd C. D. Mil
 A. nuper Vic' D. secundum
 formam Statut in hujusmodi casu nup edit,
 & p'vis' queritur de E. F. als dicit, (sc.) in
 custod' Mar, sc. de placito quod reddat ei
 100 l. libr' legalis monete Magn' Britan,
 quas ei debet & injuste detinet p' eo videlicet
 quod cum p'dict' A. post primum diem Ter-
 mini Sancte Trinitatis Anno Domini 1726,
 scilicet 20 die J, Anno Domini 1726, p'secut
 fuisset

fuisse extra Cur' dict' Domini Regis coram K.'s Bench.
 ipso Rege (eadem Cur' adiunc apud Westm^m
 in Com^m Midd existen^t) vers^r pfa^t E. quod-
 dam breve dict' Domini Regis vocat a Lat-
 tat tunc Vic^c Com^m D. pdic^t direct^r p quod
 quidem breve idem Dominus Rex eidem
 tunc Vic^c Com^m D. pdic^t pcepit quod capet
 pdic^t E. si invent foret in Wallia sua & ead
 salvo custos ita quod haberet corpus ejus co-
 ram dict' Domino Rege apud Westm^m die ** The Re-
 pr^r post tunc pr^r sequen^t turn of the
 ad respond^r pdic^t A. B. de p^rito trans^r acetia^r Latitat.
 Will ipsius A. vers^r ipsum E. p 50 l. de
 de bo secundum cons^r Cur^c ipsius Domini
 Regis coram ipso Rege exhibens qd quidem
 breve postea & ante record ejusdem scilicet
 (tali die) Anno Domini 1726. supradict^r des-
 liberal fuit pfa^t C. D. Ar adiunc Vic^c Com^m
 D. pdic^t apud G. in Com^m D. pdic^t in forma
 sur^r exequend virtute cuius quidem brevis id^r
 C. D. adiunc Vic^c Com^m D. pdic^t ut p-
 fertur existens pfa^t E. per Corpus suum ce-
 pit & arrestavit ac ipsum E. in custos sua
 adiunc & ibidem occasione pdic^t habuit &
 detinuit Ac ab eodem E. sic arrestat^r & sub-
 custos sua adiunc existen^t postea scilicet eode^r
 (tali + die) anno 1726. supradict^r ibidem ce-
 pit Wallium p comparenc ipsius E. iuxta te-
 nozem brevis ill Et supinde pdic^t E. simul
 cum quibusdam H. J. de K. in Com^m D.
 Yeoman, L. M. de K. pdic^t Yeoman,
 N.O. de P. in Com^m D. pdic^t Yeoman,
 postea scilicet eodem (tali die) Anno Domini
 1726. supradict^r apud Lond^m pdic^t videlicet in
 Paroch Beate Marie de Arcubus in Warda
 de Cheape p quoddam scriptum suum Oblis-
 gatorium

K.'s Bench. gatorium sigill' ipsorum E. H. L. & N. sigillat
 Cur' q' dict' Domini Regis nunc hic ostens
 cus dat est eisdem die & anno ult supradict
 deven' & quilibet eorum E. F. L. & N. p se
 p toto & in solid' deven' ten' & obligat pfa
 C. D. adtunc Vic Com D. pdic' existent p
 nomen C. D. Ar Vic Com D. pdic' in po
 100 l. solvend' eidem Vic aut Assig' suis
 cum inde requisit' esset, cum Conditione ei-
 dem scripto Oblig' subscript quod si pdic'
 E. compareret coram dict' Domino Rege
 apud Westm' die Mercurii pr' post quindiu
 Sancti Martini tunc prox' sequend' ad re-
 spond' pdic' A. B. Gen' de placito trans-
 gress' acetiam Bilk ipsius A. versus ip-
 sum E. pro 50 l. de debito secundu' cons'
 Cur' dict' Domini Regis coram ipso Rege
 exhibend' Quod tunc Oblig' ille vacua foret &
 nullius Effect' altoquin remaneret in suis
 plen' vigore & virtute, prout p scriptum ill'
 & condition' ille plenus liquet. Idemque A.
 ulterius die quod pdic' E. non comperuit
 coram Domino Rege apud Westmonasteri-
 um predia' predia' die Mercurii prox'
 post quindiu' Sancti Martini supradict' se-
 cund' exigen' brevis pdic' & form' & effec-
 tum condic' ille p quod scriptum Oblig'
 pdic' eidem Vic forisfact' deven' Idemque
 Vic postea scilicet (tali die) anno 1726.
 supradict' apud L. pdic' videlicet in Paroch
 Beate Marie de Arcibus in Warda de
 Cheap po ad requisic' & custag' ipsius A.
 p quoddam Indorsament in scriptis gerend
 dat eisdem die & anno ult supradict' sup
 scriptum ille fact' & indorsat' & sub manu &
 sigill' ipsius C. D. in plentia duorum credibi-
 lium

The Date
 of the Af-
 signment.

lum testium videlicet (the Names of the K.'s Bench, Witnesses) adtunc & ibidem attestat secund^m formam & effectum Statut^p pdict^r assignavit eidem A. pdict^r scriptum Obligatorium p comparsen^c pdict^r E. ut perfetur cap^t secund^d formam Statuti p^d in hujusmodi casu nuper edic^t & p^{bis} quod quidem Indorsament ipse idem A. hic in Cur^e perfert cuius dat est eiusdem die & anno ult^r supradictis R^one quorum quidem pmissioⁿ iuxta formam Statuti nup edic^t & p^{bis} actio accrebit eidem A. ut Assignd presfat C. D. adtunc Vic Com^d D. pdict^r ut perfetur existend ad exigend & habend de pfat E. pdict^r 100 l. pdictus tamen E. licet sepius requirit^r, sc. pdict^r 100 l. pfat C. aut eidem A. seu eorum alteri nondum solvit sed ille eis hucusque solvere omnino contradixit & ille eidem A. solvere adhuc contradic ad dampn^m ipsius A. 20 l. Et inde produc^r sectam, sc.

{ Pleg', sc.

Vide Narr' on a Bail-Bond, 2 Inst. Cler.
348.

If against any of the Sureties of E. F.
then thus:

Lond, s. B. Assignd C. D. At nuper
A. Vic Com^d D. secundum
formam Statuti in hujusmodi casu nup edic^t
& p^{bis} queritur de J. S. al^s dia^r, sc. in cur^e
Hod Mar, sc. (as before to the Taking of
Bail :)

K.'s Bench. Bail:) Et supinde p̄dict J. S. simulcum p̄s
 E. F. & quibusdam, (sc.) postea sc̄it, became bound for the Appearance of E. F. as is in the other; and sc̄ sets forth, that the Principal did not appear, and that the Bond became forfeited and assigned, sc̄. Per quod acto accrevit to the Plaintiff against the Defendant, sc̄. as in the other.

Declaration upon a Bill Penal.

Lond, sc. A. B. queritur de C. D. Alias
A. dicit, (sc.) in Custos Mar, sc. de plito quod reddat ei 20 l. legalis Monete hujus Regni quas ei debet & injuste detinet pro eo videlicet quod cum p̄dict C. (such a Day in such a Year) apud Paroch Beate Marie de Arcubus in Warda de Cheap p̄ quandam Villam suam Obligatoriam sigillo ipsius C. sigillat Cūque dia Domini Regis nunc hic ostens⁹ cuius dat est eisdem die & anno cognit⁹ se debere p̄sat A. 10 l. solvend⁹ eidem A. in & sup̄ primum diem Maii tunc prox⁹ sequent⁹ post dat eisdem Ville Et ad eand⁹ soluconem bene & fideliter faciendo idem C. obligavit se Heredes Executor⁹ & Administrat suos in p̄dict 20 l. firmis p̄ eand⁹ Villam Et p̄dict A. in facto dicit quod p̄dict C. non solvit eidem A. p̄dict 10 l. in & sup̄ p̄dict primum diem Maii quas ei in & sup̄ eundem diem solvisse debuit secundum formam & effectum Ville p̄dict p̄ quod Actio accrevit eidem A. ad exigend⁹ & habend⁹ de p̄sat C. p̄dict 20 l. p̄dict

¶dict tamen C. licet sepius requisit, &c. K.'s Bench.
 ¶dict 20 l. pfat A. nondum solvit sed ill ei hucusque
solvere omnino contradixit & ad-
huc contradicit Ad dampnū ipsius A. 20 l. Et
inde p̄due lectam, (etc.)

If it be upon a Bill without Penalty,
 then say (as last before usque) apud Paroch,
 (etc.) p̄ quādām Willam suam Obligatoriā
 sigillo ipsius C. sigillat Curque dicit' Domi-
 ni Regis nunc hic ostens⁹ eius dat est eisdē
 die & anno cognit⁹ se debere pfat A. ¶dict 20 l.
 solvend⁹ eidem A. Executōrib⁹ Administrato-
 rib⁹ vel Assignd suis Ad vel sup̄ primum
 diem Maii tunc sequend⁹ dat Will Obligato-
 rie ¶dict Et ad eandem solucon bene & ve-
 racit̄ fore faciend⁹ ¶dict C. obligavit se Hes-
 red Executor & Administrat̄ suos firmis p̄
 eand⁹ Willam ¶dict tamen C. licet sepius
 requisit, (etc. as before to the End.)

If you bring your Action against Two
 or more for one Debt, due on the same
 Specialty, you must observe whether the
 Specialty be joint or several. If joint,
 then your Declaration must be, that they
 render jointly to the Plaintiff so much
 Money, &c.

But if the Specialty be as is most usual,
 jointly and severally, as *Obligamus nos Hæ-
 redes Execut' Administratores nostros & utrumq;
 nostrum*, then you must deliver so many
 several Declarations, as there are Defen-
 dants in your Writ; otherwise it is plead-
 able in Abatement.

K's Bench.

A Declaration by a Clerk of the Office.

Pro Clerico
Offic.

Midd, fl. A. B. Gen und Clericorum
Cleric Domini Regis ab placita in
Curia ipsius Domini Regis coram ipso Re-
ge irrkuland assidj surta libertat & pri-
leg' pro hujusmodi Capital Cleric & ejus
Clicis a tempore cusus contrar memoria ho-
minum non existit usitat & approbat in eadē
plein hic in Cur in ppria plona sua queritur
de C. D. in Custos Mar, &c. pro eo videlicet
quod cum, &c.

Case.

Debt.

Or, — in custos Mar, &c. de p[ro]lito
quod reddat ei 10 l. quas ei debet & inuste
detinet, (sc. as the Case is.)

Against an Attorney of the Court.

Case.

Midd, fl. A. B. queritur de C. D. Gen
und Attorij Cur Domini
Regis coram ipso Rege p[ro]lein hic in Cur in
ppria plona sua p eo videlicet quod cum, &c.
These may serve pro & con' mutatis mutan-
dis, and conclude with Pleg' de proseq'
Johes Doe & Ricus Roe, at Length. Vide
the Statute for that Purpose.

Narr'

Narr' for Goods sold and delivered.

Mich. 13 Georgii Regis.

Midd, sc. A. B. queritur de C. D. in cuius
tempore illud vendit quod cum pō C. decimo * die Octobris * You may
Anno Domini Millimo septingenimo vice- lay it at any
simo certo apud Parochi Sancti Clementis Time after
Dacionem in Comitatu Midd indebital fuisse eidem the Cause of
A. in septendecim Libr' legalis Monete Action, and
Magni Britani pō diversorum bonorum mercimonij & before the
merchandiz' ipsius A. pō ipsum A. eidem C. of the Term
& ad eum special instant & requisitione ante the Declaration
tempus illud vendit & delibat Et sic inde in- tion is of.
debital existet pōta' C. postea scilicet eidem Indebitatus
die & anno supradicti apud Parochi pōta' in Assumption for
Comitatu pōta' in cons' inde sup se assumptus & Goods sold
eidem A. adtunc & ibidem fideli' pmisit quod and deliver-
ipse pō C. pō septendecim lib' eis A. cum in- ed.
de postea requisit esset bene & fideli' solvere
& contentare vellat Cumque etiam pōta' C.
postea scilicet eidem die & anno supradicti apud
Parochi pō in Comitatu pōta' in cons' quod pō
A. ad siles special instant & requisitione ipsius Quantum va-
C. vendidisset & deliberaasset eidem C. diversorum lebant for o-
al bonorum mercimonij & merchandiz' ipsius A. ther Goods
sup se assumptus & eidem A. adtunc & ibidem sold.
fideli' pmisit quod ipse pō C. omnes tant
denar' sunt quam bonorum mercimonij & merchan-
diz' illi ult' menonat tempore venditionis &
deliberationis eorumdem rationabiliter valebant
eidem A. cum inde postea requisit esset bene
& fideli' solvere & contentare vellat Et pō A.

K.'s Bench. in fact' die quod hōid mercimoniū & merchāns-
 ~~~~~ diz' ill' ult mençonat tempore vendicōn &  
 deliberaçōn eozundem rationabiliter valebant  
 al lund septendecim libz' silis legalis Monet  
 Magiū Britān videlicet apud Paroch p̄dict in  
 Com̄ p̄d' & inde p̄d C. postea scilicet eisdem  
 die & anno supradict apud Paroch p̄d in Com̄  
 p̄dict notice habuit Cumque etiam p̄dict C.  
 postea scilicet eisdem die & anno supradict apud  
 Paroch p̄d in Com̄ p̄d insimul computasset  
 Monies due. cum p̄d A. de & concerneñ divers⁹ denar lund  
 eidem A. p̄ ipsum C. ante tempus ill' debit  
 & insolut Et sup Compo ill' idem C. adunc  
 & ibidem invent fuit in Arrerag' erga eundē  
 A. in al lund septendecim libz' silis legalis  
 Monet Magiū Britān Et sic inde in arrerag'  
 invent eritkē p̄d C. in cons̄ inde postea  
 scilicet eisdem die & anno suprad apud Paroch  
 p̄d in Com̄ p̄d sup se assumpsit & eidem A.  
 adtunc & ibidem fidelit pmisit quod ip-  
 se p̄d C. p̄d septendecim libz' ult mençonat  
 eidem A. cum inde postea requisit es-  
 set bene & fidelit solvere & contentare vel-  
 let P̄d iam C. separal pmicōn & assump-  
 çōn suas p̄d in forma p̄d fac' mīe curam  
 sed machinān & fraudulent intenden' eundē  
 A. in hac parte callide & subdoile decipere &  
 defraudare p̄d separal denar lund seu aliquē  
 inde denar eidem A. nondum solvit nec ei  
 p̄ eisdem aliqualit contentavit licet ad hoc fa-  
 ciend p̄d C. postea scilicet eisdem die & anno  
 suprad apud Paroch p̄d in Com̄ p̄d & lepius  
 postea p̄ eundē A. requisit fuisset sed ill' ei huc  
 usque solvere seu p̄ eisdem aliqualit conten-  
 tare omnino recusalit & adhuc recusat unde  
 idem A. die qđ ipse deteriorat est Et dampnū  
 habet

Breach.

habet ad valenc septendecim libr' Et inde K.'s Bench.  
producit sectam, &c.

p Quer } pleg', &c.  
p Def. }

Narr' for Money laid out, Money lent,  
and Money had and received.

Hill Anno 13 Georgii Regis.

Midd, sc. A. B. queritur de C. D. in cus-  
qđ cum pred C. decimo die Januarii Anno  
Dominī Millemo septingenimo vicesimo Indebitatus  
sesto apud Paroch Sancti Clementis Dacoz' assumpſit for  
in Comd Midd Indebitāt fuisse eidem A. in Money laid  
decem librī legalis monete Magne Britan out and ex-  
pro tant' denar sumū p ipsum A. p eodem C. pended.  
& ad ejus special instant & requisiſōnē ante  
tempus ill' erogat extrapolat expens & solut  
Et sic inde indebitat existēt pō C. in cons  
inde postea scilicet eisdem die & anno suprad  
apud Paroch pō in Comd pō sup se assumpſit  
& eidem A. adtunc & ibidem fidelit pmisit  
& ipse pō A. pō decem libr' eidem A. cum  
inde postea requisit esset bene & fidelit solvere  
& contentare vellet Cumque etiam pōit' C.  
postea scilicet eisdem die & anno suprad apud  
Paroch pō in Comd pō indebitat fuisse eide  
A. in al decem libr' scilicet legalis monete  
Magnū Britan eiō C. p pfac A. ad ejus The like for  
special instant & requisiſōnē ante tempus ill' Money lent.  
mutuo dat & accommodat & sic inde indebitat  
existēt pred C. in cons inde postea scilicet  
eisō

K.<sup>s</sup> Bench. eisdie & anno suprad apud Paroch propria  
 Com propria sup se assumpt & eidem A. adtunc  
 & ibidem fidelit pmisit quod ipse idem C. predict<sup>r</sup> decem libr<sup>r</sup> ult menconat eidem A. cum  
 inde postea requisit esset bene & fidelit & sol-  
 vere & contentare vellet Cumque etiam predict<sup>r</sup>  
 Money had and receiv-  
 ed for the Use of the Plaintiff.  
 The like for  
 C. postea scilicet eisdem die & anno suprad apud  
 Paroch predict<sup>r</sup> in Com predict<sup>r</sup> indebitat fuisse  
 eidem A. in al decem libr<sup>r</sup> filis legalis mon-  
 pro consili denar sum*us* ipsius A. pro predict<sup>r</sup> C.  
 pro eodem A. & pro usu ipsius A. ante tem-  
 pus ill habit & recept & sic inde indebitat  
 existent predictus C. in consideratione inde  
 postea scilicet eisdem die & anno suprad<sup>r</sup>  
 apud Paroch propria in Com propria sup se assumpt  
 & eidem A. adtunc & ibidem fidelit pmisit qd  
 ipse pred C. pred sum decem libr<sup>r</sup> ult mens-  
 conat ei A. cu inde postea requisit esset bene  
 & fidelit solvere & contentare vellet Pro us  
 tamen, as before.

S, sc.

### Narr<sup>r</sup> for Work done, and Materials found and provided.

Hill. Anno 13 Georgii Regis.

Midd, sc. A. B. queritur de C. D. in cu-  
 delicet quod cum pred A. primo die Januarii  
 Anno Domini millimo septingentimo vice-  
 simo sexto apud Paroch laic<sup>r</sup> Clement<sup>r</sup> Da-  
 torum in Com Midd indebitat fuisse ei A.

in vigint' & quinque libz' legalis Monete K.'s Bench.  
 Magd Britan tam p diversis operibus & <sup>Indebitatus</sup>  
 laboribus ipsius A. p ipsum A. p eodem C. <sup>assumpfit for</sup>  
 & ad special' instant & requisicōn ipsius C. Work done  
 ante tempus ill' fact' & pformat' quam p di- and Materi-  
 versis material & rebus necessar ipsius A. p als found  
 ipsum A. p pō C. & ad ejus siles special' ins and provided  
 stant & requisicōn ante tempus ill' in &  
 circa opa & laboz' p̄s invent p̄s & usitat  
 Et sic inde indebitar' existet pō C. in cons  
 inde postea scilicet eisdem die & anno suprad  
 apud Paroch pō in Com pō sup se assumpfit  
 & eidem A. adiunc & ibidem fideliter promis  
 sit quod ipse pō C. pō vigint' & quinque  
 libz' eidem A. cum ind postea requisit' esset be  
 ne & fidelit solvere & contentare vellet Cum  
 que etiam pō C. postea scilt eisdem die & an  
 no supradict' apud Paroch pō in Com pō in  
 generatione qd pō A. ad siles special' ins  
 tanc' & requisicōn ipsius C. ante tempus ill'  
 fecisset & pformatset p eodem C. divers' al' <sup>Quantum me</sup>  
 opera & labores & invenisset providisset & u- <sup>ruit for other</sup>  
 sus fuisset p eodem C. divers' al' material' and other  
 & res necessar' in & circa opa & labores ill' Materials.  
 ult' menconat' sup se assumpfit & eidem A.  
 adiunc & ibid fideit pmisit quod ipse pō C.  
 oies tant' denar sum quant' ipse pō A. p o-  
 piib & labozib ill' ult' menconat' sicut pfectur  
 fact' & pformat' ac p material' & reb neces  
 sar ill' ult' menconat' sicut pfectur in & cir  
 ca opera & laboz ill' ult' menconat' invent  
 provis' & usitat' rationabiliter here meritus  
 fuisset eidem A. cum inde postea requisit' es  
 set bene & fidelit solvere & contentare vellet &  
 pō A. in facto dic quod ipse pō A. p ovi  
 bus & labozibus ill' ult' menconat' sicut pfectur

K.<sup>s</sup> Bench. tur fact<sup>r</sup> & pformat & p material<sup>r</sup> & rebus necessariis in q circa oya & labores il<sup>r</sup> ult' mercenariae sic ut perf invent pvis<sup>r</sup> & usitat rationabiliter habere meruit de eodem C. al sum<sup>r</sup> virginis & quinque libz<sup>r</sup> solidis legalis monete Magni Britan<sup>r</sup> vide<sup>r</sup> apud Paroch p<sup>r</sup> in Com<sup>r</sup> p<sup>r</sup> unde p<sup>r</sup> C. postea scilicet eisdem die & anno supradic<sup>r</sup> apud Paroch p<sup>r</sup> in Com<sup>r</sup>

\* It is usual p<sup>r</sup> notice habuit \* Predic<sup>r</sup> tamen, as before.

In simul compitasset.

— p Quer }  
— p Def. } Pleg<sup>r</sup>, sc.

Quantum me  
ruit, for the  
Cure of a  
Wound.

Averment.

**A.** B. queritur de C. D. in curia <sup>Stod Mar, sc.</sup> pro eo videlicet quod cum p<sup>r</sup> A. (such a Year and Day) apud E. in Com<sup>r</sup> p*dict* ad special<sup>r</sup> instantia & requisition<sup>r</sup> ipsius C. ipsum C. de quodam vulnero in Capite suo tunc existent<sup>r</sup> custaret super se assumpt<sup>r</sup> & eidem A. adiunct<sup>r</sup> & ibidem fidelicet p*miss* quod ipse idem C. tant<sup>r</sup> denar spond<sup>r</sup> quant p<sup>r</sup> A. pro hujusmodi cura vulneris p<sup>r</sup> rationabiliter mereretur eidem A. cum inde postea requisit<sup>r</sup> esset bene & fideliter solvere & contentare vellet Et p<sup>r</sup> A. in facto dicit quod ipse promission<sup>r</sup> & assumption<sup>r</sup> p*dict* C. in forma p*dict* fact<sup>r</sup> fidem adhibens postea scilicet — (such a Day and Year) apud E. p<sup>r</sup> in Com<sup>r</sup> S. p*re* curavit p<sup>r</sup> C. de vulnero p*red* Et pro Cura il<sup>r</sup> rationabiliter meruit quinque libras legalis monete Magni Britan<sup>r</sup> & inde adiunct<sup>r</sup> & ibidem dedit eidem C. notitiam.

After this you may add by Cumq; etiam  
Indebitatus assumpsit pro Medicamentis,  
&c. thus,

Cumq; etiam pro C. postea scilicet eodem Indebitatis de-  
(the Day and Year) ult. supradis apud E. sumpisit.  
pred in Comit pred indebitat' fuisse eidem A.  
in al' quinque libris pro diversis Medicamen-  
tis Emplastry Unguentis ac al' Mercis-  
moniis eidem C. pro pred A. ante tunc vendit'  
& deliberat prediogue C. inde indebitat ex-  
istend ipse predict' C. in considerat inde po-  
stea scilicet eisdem die & anno ult. supradis  
sup se assumpta Et eidem A. adtunc & ibid,  
&c. (as in the Declaration next before.)

And so you may lay a Quantit valerent Quantum  
pro diversis Medicament, &c. sold and deli-  
vered . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . .  
sup se assumpta & eidem A. adtunc & ibidem  
fideliter promisit ipse idem C. tant denar  
summas quant Medicament Emplastra Un-  
guenta & al' Mercimondi pred tempore ven-  
dicion & deliberation eorum quam rationa-  
biliter valerent eidem A. cum inde postea re-  
quisit esset bene & fideliter solvere & conten-  
tare vellet Et idem A. in facto dic quod ge-  
dicament Emplastra Unguent & al' Merci-  
mondi pred tempore vendition & deliberation  
eorumdem rationabiliter valebant al' quinque  
libras legalis monete Magni Britani videlicet  
apud E. pred in Comit pro unde idem C. postea  
scilicet pred eisdem die anno & loco habuit  
notitiam (you may also inforce this by Pro al' Medi-  
camentis  
Averment:  
laying clement's

K.'s Bench laying it over again thus) Cumque etiam  
 ~~~~~ p̄s A. postea scilicet die, (sc.) apud, (sc.)  
 ad special' instant' & requisitione ipsius C.
 vendidisset & deliberasset p̄fāt C. divers' al'
 Medicament, sc. (as before) usque notitiam
 Yet it is usu- habuit (but this seems rather to be to en-
 al to add an large the Declaration than for Necessity)
Insimul com- p̄s tamen C. separal' promissiōn & assump-
putasset. cōn suas p̄s mīe curans sed machinans,
 sc. as before.

Here also may be joined a *Mutuatus* for
 other Money, if need be.

Narr' on a promissory Note payable on
 Demand.

Mich. 13 Georgii Regis.

Midd, s. **A.** B. queritur de C. D. in cu-
 * The Date
 of the Note. **A.** stod Mar, sc. pro eo videlicet
 quod cum p̄s C. post primum diem Maii an-
 no Domini Millimo septingentimo quinto
 scilicet * vicesimo primo die Decembri anno
 Domini Millimo septingentimo vicesimo
 quarto apud Parochi Sancti Clementis Daco-
 rum in Com. Midd fecit quandam Notam sua
 in scriptis cōt vocat a promissory Note
 manu sua prop̄ adinde subscript gereit dat
 eiusdem die & anno ult supradicta' quam quide
 Notam p̄s C. p̄fāt A. adtunc & ibid deli-
 habit & p̄ eand Notam promisiōn solvere pre-
 fāt A. p̄ nomen mīi A. vel suo ordinū sup
 mandū lund trigint & octo libz' pro valore re-
 cept ratione quorum quid premisorum nec-
 non vigore stat in hujusmodi casu inde edit
 & pros

¶ probis' idem C. onerabil' devell ad solvend K.'s Bench.
 eidem A. vel ordini suo pred trigint & octo libz' sup demand secundum tenorem Note
 pred Et pō A. sic inde onerabil' existiv in
 consideratione inde postea scilicet eisdem die
 & anno ult supradict apud Paroch pō in Comd * It is usual
 pō sup se assumpsit & eidem A. adiunc & ibid to add an In-
 fideliter pmisit quod ipse pō C. pō trigint & debitatus af-
 octo libz' sup demand eidem A. bene & fideli- sumpsit for
 ter solvere & contentare vellet Et pō A. in Money had
 facto dic quod ipse ad aliquod tempus post — And an
 consecōnd Note illius hucusque nullum fec Indebitatus af-
 ordin de vel concerneid soluconid denar sum psumpsit for
 pō in Nota pō content vel de aut concerneid Money laid
 soluconid alicujus partis inde * Predicatus tas an Insimul
 men, as before. computasset.

Pleg, &c.

Vide several Declarations on promissory Notes in the Second Volume of *Instructor Clericalis* last printed.

The Intent of laying these Declarations so many different Ways with a *Cumque etiam*, is, that upon the Trial the Plaintiff may rely on that Count which his Witnesses are best able to prove; for if any one of the Counts, laid in the Declaration, be proved, it is sufficient for him to recover *pro tanto*.

And one may join several Causes or Wrongs in one Action or Narr', so they be of one Nature and against one Person, so one Action of the Case for divers Promises; but Debt, and Trespass, and Wrongs

K's Bench cannot be joined together in one Action, though against one and the same Person.

Upon the *Indebitatus assumpsit* for Goods sold and delivered, it is requisite the Plaintiff should prove more than one particular Thing sold, and also to prove a Price agreed upon, otherwise the Action will not lie. But on a *Quantum meruit*, you need only prove the Delivery of the Goods, and their Value at the Time of the Delivery; therefore in an Action for Goods sold, or Work done, it is most secure to lay a *Quantum meruit* with an *Indebitatus assumpsit*; but if only one particular Commodity is sold, you must mention that Commodity particularly in the Declaration, and not say, Goods sold. Upon an *Insimul computassent*, you must lay in your Declaration the very Day of the Account, and the very Sum agreed upon by both Parties to be due, otherwise the Plaintiff will be nonsuited.

Trover.

Trover.

Som̄s, s. **A.** B. quer' de C. D. in custos
A. Mar, sc. p eo videſt qd cū
 pō A. decimo die Maii anno Reg Dom̄ Geor-
 gii nunc Regis Mag Britan̄, sc. duodecimo
 apud L. in Com̄ pdict possell. fuit de bonis
 & catallis sequen̄ videſt de un̄ lecto pulvi-
 nat (Anglice Feather-Bed) [naming the
 Goods] ad valenc 40 l. ut de bonis & catal-
 lis suis ppr' Et sic inde possessionat existet
 idem A. postea scilicet eisdem die & anno supra-
 dicta

dict apud L. pdict in Com^d pdict bona & ea K.'s Bench.
 talia ill extra manus & possession suarum casu-
 alit pdidit & amisit que quidem bona & catal-
 la sic amis & postea scilicet eisdem die & anno
 supradicta apud L. pdict in Com^d pdict ad
 manus & possession pdict C. p invencon
 devener pdict tamen C. sciens bona & catal- Though you
 la pdict fore bona & catalla ipsius A. propz' cannot prove
 & ad ipsum A. de jure spectare & ptinere ma- an actual
 chinans tamen & fraudulent intendit eundem Conversion,
 A. in hac parte callide & subdole decipe & de- yet a De-
 fraudare bona & catalla po licet sepius requi- mand and
 sit, sc. eidem A. nondum delibavit sed bona deliver the
 & catalla pdict postea scilicet 16 die Maii Goods de-
 anno duodecimo supradicto apud L. pdict in manded is a
 Com^d pdict in usum suum propz' convertit sufficient E-
 & disposuit Unde idem A. dicit quod ipse de- vidence of a
 teriorat est Et dampn^d habet ad valenc sexaginta libz^r Conversion.
 Et inde produc^c sectam, sc.

Trover and Trespass cannot be brought in one Declaration—neither can Trover and Assumpsit.

Declaration in Trespass for breaking his Close, eating up and treading down his Grass, with a Continuando.

Som^s, sc. A. B. queritur de C. D. in cuius Trespass.
A. Stod Mar, sc. de eo quod
 ipse C. primo die Maii anno Regni Domini
 Georgii nunc Regis Magne Britan^d, sc.
 duodecimo vi & armis, sc. Clm ipsius A:
 vocat White Acre, apud E. in Com^d pdict^r
 P 4 fregit

K.'s Bench, fregit & intravit Et herbam ipsius A. ad valenc centum solid nup crescent cum quibus averis videat equis vaccis porcis & bidentibus depast' fuit conculcavit & consumpsit (Transgr' pdic' quoad pdic' depast' conculcation & consumpcion herbe pdic' a pdic' primo die Maii anno supradicto usque primi diem Septembri extunc pr' sequent diversis diebus & vicibus continuando) Et alia enormia ei adiunc & ibidem intulit ad grave dampnum ipsius A. Et contra pacem dic' Domini Regis nunc unde idem A. dicit quod ipse deteriorat est Et dampnus habet ad valenciam quadraginta librarum Et inde producit lectam, &c.

In Assauſt and Battery,

Somis, s. B. queritur de C. D. in cuius
A. stob Mar, &c. de eo quod
 ipse primo die Maii anno Regni Domini
 Georgii nunc Regis Magni Britan, &c.
 duodecimo vi & armis videlicet gladiis bacu-
 lis & cultellis in ipsum A. apud E. insult fecit
 & ipsum verbavit vulneravit & maletraxavit
 ita quod de vita ejus maxime desperabatur
 Et alia enormia ei adiunc & ibm intulit con-
 tra Pacem dic' Domini Regis nunc unde
 idem A. dicit quod ipse deteriorat est &
 dampnus habet ad valenc 20 l. Et inde pro-
 ducit lectam, &c.

In Assault, Battery and Imprisonment.

— Insult fecit & ipsum A. verberavit
 vulneravit imprisonavit & maletractavit & ipsum p̄dici' A. in pr̄sona sine aliqua rationabili causa contra volunt ipsius A. & contra legem & cons' hujus Regni Angl p̄ magna tempus (viz.) p̄ spatium duorum dierum continuit & custodivit Et alia enormia ei adiunc & ibidem intulit contra pacem dict' Domini Regis nunc unde idem A. dicit quod ipse deteriorat est & dampnum habet ad valenc 40 l. Et inde p̄due lectam, &c.

Replevin.

S. A. B. sūnd fuit ad respond C. D. de Repl'. p̄lico quare cepit averia ipsius C. & ea injuste detinuit contra vad & pleg, &c. Et unde idem C. p̄ R. G. Attorn sūnd queritur qd p̄ A. primo die Maii anno Regni Domini Georgii nunc Regis Angl, &c. duodecimo apud S. in Corn p̄ in quodam loco ibidem vocat Spring-Close, cepit averia ipsius C. videlicet duos boves & tres vaccas & ea injuste detinuit contra vad & pleg quousque, &c. Unde pdic' C. dicit quod ipse deteriorat est & dampnum habet ad valenc 20 l. Et inde p̄due lectam, &c.

A Re-

K.'s Bench.

A Replevin ought to be certain in setting forth the Number and Kinds of the Cattel distrained, or else it is not good; for if it be uncertain, the Sheriff cannot tell how to make Deliverance of the Cattel, if a Writ be directed to him for that Purpose: Therefore it ought to be expressly mentioned to that Intent in the Replevin.

See more of Declarations in the Second Part.

A Declaration in Ejectment.

Mich. 13 Georgii Regis.

To serve
this Declara-
tion in E-
jectment
on a Tenant
of a Lord
of Parlia-
ment, or
Member of
the House of
Commons,
during the
Privilege, is
Breach
thereof.

Som^{er}, s. **A.** B. queritur de C. D. in
custod^{is} Mar, sc. p eo
videat quod cum E. F. Gen decimo die Octo-
bris anno Regni Domini Georgii nunc Re-
gis Magne Britannie, sc. decimo tertio apud
W. in Com^{it} p^{re} dimisisset concessisset & ad-
firm^{it} tradidisset p^{re}fat A. quinque messuagia
& quinque Gardina (reciting the Par-
cels) cum p^{re}iu^m situat jacent & existent in
Paroch (the Place where) in Com^{it} p^{re} ha-
bend & tenend Tenementa p^{re} cum p^{re}iu^m p^{re}fat
A. & Alligat suis ab octavo die Octobris tunc
ult p^{re}cipit usque plenum finem & terminum
quinque annorum extunc p^{re}r' sequent & plenar^m
complend & finiend virtute cuiusquidem di-
missionis idem A. in Tenementa p^{re} cum p^{re}iu^m

tin intravit & fuit inde possessionat quousque K.'s Bench.
 pō C. postea scilicet eodem decimo die Octob
 anno decimo tertio supradicto vi & armis, sc.
 in Tenement pō cum ptin in & sup possessi-
 oni ipsius A. inde intravit & ipsum A. a firm
 sua pō Termine suo pō inde nondum finit
 ejecit expulit & amovit ipsumque pō A. sic in-
 de eject' expuls' & amot a possessione sua in-
 de extratenuit & adhuc extratenet Et alia
 enormia ei adtunc & ibidem intulit contra
 Pacem dict' Domini Regis nunc Et ad
 dampnum ipsius A. decem libz? Et inde p-
 duc' legam, sc.

Pleadwell p Quer' } Pleg, sc.
 Cunningham p Def. } Pleg, sc.

Mr. G. H.

I Am informed that you are in Possession,
 or claim Title to the Premisses in this
 Declaration of Ejectment mentioned, or
 to some Part thereof; and I being sued in
 this Action as casual Ejector, and having
 no Claim or Title to the same, do advise
 you to * appear next Hillary-Term in his* If the De-
 Majestys Court of King's Bench at West-claration be
 minster, by some Attorney of that Court, in London or
 and then and there by Rule made of the Middlesex,
 same Court, to cause your self to be made then say, the
 Defendant, in my Stead; otherwise Inext Hillary-
 shall suffer Judgment therein, to be enter-Term.
 ed against me, and you will be turned out
 of Possession.

Jan. 5.

1727.

I am Your
Loving Friend

C. D.

Note,

K.'s Bench.

Note, The Defendant is not arrested upon these Ejectments; for they being usually to try a Title, the first Defendant is some Friend to the Plaintiff; and at the Bottom of this Declaration or Back-side, in his Name, this Notice is given to the Tenant in Possession to defend his Title.

A Copy of this Declaration with the *English* Subscription, must be delivered before the Essoin-Day of the ensuing Term, to the Tenant in Possession himself, or to his Wife; (a Delivery to a Son, Daughter or Servant is not good, unless it appear by Affidavit to the Court, that the Tenant acknowledged the Receipt of such Declaration) the Person that delivers it must read the *English* Subscription to the Tenant, or may tell him the Contents thereof, and that unless he forthwith shall procure some Attorney of the King's Bench to appear for him and defend his Title (if he hath any) he shall be turned out of Possession.

Some Time in the ensuing Term you give a Rule to plead with the Clerk of the Rules: And if the Tenant does not appear and enter into the Rule by Consent, which is hereafter set forth; you must first, in Order to entitle yourself to have Judgment against the casual Ejector, make the following Affidavit of the Service of the Declaration in Ejectment.

The

The Affidavit.

A. B. maketh Oath that he did on ——
 the —— Day of —— deliver a Copy of
 the Declaration hereunto annexed unto
G. H. Tenant in Possession of Part of the
 Premisses in the said Declaration men-
 tioned, and also on the same Day did de-
 liver one other Copy of the said Declara-
 tion unto *D.* the Wife of *E. F.* one other
 Tenant in Possession of the other Part of the
 Premisses in the said Declaration mention-
 ed; and this Deponent further saith, he
 told them severally, that it was a Declara-
 tion in Ejectment, and unless they did
 appear by some Attorney of the Court of
 King's Bench, this present *Hillary-Term*,
 there would be Judgment thereupon a-
 gainst the Defendant by Default, and they
 would be turned out of Possession, or
 Words to that Effect.

Jur' — die
 — coram me

A. B.

Upon this Affidavit, † at the later End of may move
 the Term, you move the Court, that unless the Court
 the Tenant in Possession, will enter into the Begin-
 such Rule, Judgment may be entred ning of the
 against the casual Ejector.

† If in Lon-
 don or Mid-
 dlesex, you
 may move the Court
 the Tenant in Possession, will enter into the Begin-
 such Rule, Judgment may be entred ning of the
 against the casual Ejector.

The in Term to
 appear and
 plead.

K.'s Bench. The Clerk of the Rules upon this Motion, keeps the Affidavit and Declaration annext, so that it is proper you have another filled up by you.

You draw up a Rule with the Clerk of the Rules for Judgment against the casual Ejector, and unless the Tenant within the Time given by that Rule, does appear and enter into the Rule by Consent, Judgment may be entred against the casual Ejector by Default, and then a Writ of Possession issues out as you may observe before in the Judgment entered in Ejectment.

But if the Tenant will appear and enter into the Rule by Consent, it is proper his Attorney should first take the following Authority.

The Warrant to the Tenant's Attorney to appear and plead.

Mr. K.

A Ppear for me to this Declaration, and make me Defendant in the Room of C. D. the Nominee Defendant; and enter into the common Rule for confessing the Lease, Entry and Ouster, and thereupon plead Not guilty; and for your so doing this shall be your Warrant; and I hereby promise to pay you your Fees and Disbursements.

I

G. H.

Then

Then the Tenant's Name must be in K.'s Bench inserted in the following Rule, and he is made Defendant in the Declaration in the Room of the other Defendant, and must plead Not guilty, and insist upon his Title only at the Trial, &c. otherwise Judgment may be entred by Default.

The Rule by Assent is thus:

Hill. Anno 13 Georgii Regis.

Somis^t, II. Ordinal est ex assensu Attori^m A. B. versus ambarum partium qd G. H. C. D. pro defens^t in loco modo defend^t C. D. & com^m, ^{cem mes^s,} parebit indilate ad sectam Quer^t Et impon^m ^{&c.} naming Commune Ballium & recipiet Narr^t in p^m in G. in Com^m to Transgr^t & Ejection^t Firme p tentis in Somerset ex di- questione & p^mitabit adinde non cul^t indilate missione E. F. Et super triat^t Exit^t cogn^m dimiss^t intrac^t & actual Ejection^t & insister super titulum tan^t aliter Judic^t intreit^t p quer^t versus modo de- fens^t C. D. p defalt^t Et si sup triat^t Exit^t p^m dic^t idem G. non cogn^m dimiss^t intrac^t & enter into a actual Ejec^t p quod quer^t Willam suam Rule for versus pdict^t G. ulterius prosequi non poterit more Lands tunc nulla mis^t sive custag^t sup hujusmodi non or Tene- p^m adjudicent^t Sed pdia^t G. sol^t pfa^t quer^t mis^t & custag^t supinde taxand^t Et ulterius Declaration ordinat^t est quod si sup triat^t Exit^t pdict^t vere mentioned, reddit fuerit p defend^t G. H. vel si acci- than are in his Possession. derit pdia^t quer^t Willam suam pdict^t ulterius non prosequi propter aliquam aliam causam quam pro non cogn^m dimiss^t intrac^t & actual

K.'s Bench. actual Ejec^{con} p*dict* quod tunc dimissor
 quer sol p*fat* G. mis & custag in ea parte
 adjudicand, &c.

Both the Attornies Pleadwell pro Quer,
 set their Hands. Cunningham pro Def.

The Attorney for the Defendant signs this Rule, and leaves it at one of the Judges Chambers, and pleads the General Issue *Non cul'*, which Rule the Attorney for the Plaintiff takes away, and subscribes likewise his Name, and then carries it to the Clerk of the Rules, who thereupon makes out a Rule, which differs but little from this; or if you know the Attorney concerned for the Tenant, you may, to save your Client the Expence of moving the Court against the casual Ejector, apply to him to enter into the Rule by Consent without such Motion.

After this Rule is drawn up by the Clerk of the Rules, on the Rule by Consent signed by the Attornies, you deliver your Issue with a Copy of such Rule, enter your Proceedings, make up your Record, and sue out your *Venire* and *Stringas*, as is before directed.

If an Ejectment be brought for Nonpayment of Rent, the Defendant may, on Motion or by Summons before a Judge, have the Proceedings stayed upon Payment of the Rent and Costs.

Note, If the Plaintiff suffer a Non Pros' at the Assizes, *quia Def. non Cogn'*, &c. It is said you need not stamp the Record for Postea or Judgment, but only to shew the Record from the Assizes; and Judgment will be signed upon the Rule by Consent.

In this Title of *Ejectment* it may be useful to speak something concerning Proceedings by Original.

And note, That *Proceedings by Original* are not so often used in this Court, the by Original Attorneys not being so well versed in that Method; as also it is more subject and liable to Errors: However, in some Cases, as in *Ejectment*, that Practice is very necessary to be understood; and seeing I do not find it set forth in any Books that treat of this Subject, I think it may be useful to insert it. The Method is much after the Manner of the Court of *Common Pleas*, and the Advantage is, That a Writ of Error upon a Judgment in *Ejectment* by Original cannot be brought, or at least returnable, but when the Parliament is sitting, which is of great Use for the speedy Getting into Possession: As you ought to have a *Latitat*, to warrant your *Ejectment* brought in the usual Manner by Bill in the Country: So in this Way of Proceeding, you ought to have an Original

K.'s Bench. nal, which is the Foundation of the Ac-
tion.

Draw a *Præcipe*, which is the Instruction
on to the Cursitor of the County where
the Land lieth, to make the Original in
this Manner:

Pone for an
Original in
Ejectment.

Sonis, sc. (The County where the
Land lieth) si A. B. (viz. the Plaintiff)
se^c, &c. tunc pone, &c. T. D. (viz. the
Defendant) nup de F. in Com^m pdic^t Peo-
man; (Note, you must put the Defen-
dant's Addition, or else it is Error) ad re-
spondend^b p^tat A. B. de placito quare vi & ar-
mis unum messuagium centum acres terre
quinquagint^t acr^r prati & quinquagint^t acr^r
pasture cum ptinen^r in G. (viz. the Parish
where the Land lieth, and the House and
Land as you lay them in the Declaration)
que S. (viz. the Lessor of the Plaintiff,
that is, the Person that hath the Title in
him) p^tat A. B. dimisit ad terminum qui
nondum preterist intravit & ipsum a firma
sua pdic^t ejecit & al^r Enormia, &c. ad grave
damnum, &c. Et contra pacem, &c. re-
turn^r in Octab^s Sancti Hillarii ubicunque,
&c. in B. R.

Carry this *Præcipe* or Instruction to the
Cursitor of the County where the Land
lieth, at the *Cursitor's Office in Chancery-
Lane*, and he will make you out the Original,
for which you pay him 2 s. 6 d.
The Original must be returnable on a ge-
neral Return-Day, as in Octabis Sancti
Hillarii, and may be the first Return of
the

the Term, whereof your Declaration is; K.'s Bench. That is, if you have Judgment against the casual Ejector for that the Tenant *Nota.* doth not enter into a Rule and plead, then your Original must be against the casual Ejector; but if the Tenant appear and plead, then your Original must be made against the Tenant, and not against the casual Ejector.

Which Original you must get returned by the Sheriff, to whom it is directed, although the Practice usually is for the Plaintiff's Attorney to return the Original: And after it is returned, it ought to be filed with the *Custos Brevium* of the King's Bench.

The Form of a Declaration in Ejectment by Original.

Mich' Anno duodecimo Georgii Regis.

South. II. **C**arolus Draper (the Defendant) Ruper de Peters-
field in Com Southeon Yeoman, Attach^t mit the
suit ad respondend A. B (the Plaintiff) de Plaintiff in
placito quare vi & armis, &c. vid Hesua. Ejectment to
gium vid pomae vid horreum quinqua-
gint acr terre quinquagint acr prati quin-
quagint acr pasture cum pined in E. (the Plea plead-
ed; but he
must stand or fall by it, or deliver a new Declaration; neither
will the Court give Costs, where it appears, that there was
only one Declaration delivered, and no Proceedings thereon;
but when several Declarations have been delivered, and no
Proceedings on either, there they give Costs for the Vexati-
ousness of such Proceedings.

K.'s Bench. Parish where the Land lieth) in Comd p̄
 que J. S. (the Person that hath the Title
 in him) eidem A. B. dimisit ad Terminum
 qui nondum preterit intravit & ipsum a
 firma sua pdic⁹ Ejecit & aꝝ enormia ei intus-
 lit ad grave dampnum ipsius A. B. Et contra
 pacem Domini Regis nunc, sc. Et unde id
 A. B. p J. P. Attornatum suum queritur quod
 cum pdictus J. S. decimo die Octobris anno
 Regni die Domini Regis nunc decimo apud
 E. pdic⁹ (viz. the same Parish where the
 Land lieth) dimisisset eidem A. B. tenementū
 pdic⁹ cum prinen⁹ habend & occupand tenes-
 menta p̄d cum prinentiis eidem A. B. & als-
 signat suis a nono die Octobris tunc ult pte-
 rit usque plenum finem & terminum quinque
 annorum extinc px' sequend plenar complens
 & finiens Virtute cusus quidem dimissionis
 eidem A. B. in tenementa p̄d cum prinen⁹ in-
 travit & fuit inde possessionat ipsoque A. B. sic
 inde possessionat existend p̄d C. D. (viz. the
 Defendant) postea scilicet eodem decimo die
 Octobris anno decimo suprad vi & armis, sc.
 in tenement p̄d cum prinen⁹ que pſat J. S.
 (viz. the Lessor) eidem A. B. in forma pdic⁹
 dimisit ad terminum pdic⁹ qui nondum pte-
 rit intravit & ipsum A. B. a firma sua pdic⁹
 ejecit & aꝝ enormia, sc. ad grave dampnū,
 sc. Et contra pacem, sc. unde dicit quod de-
 teriorat est & dampnū habet ad valenc 10 l.
 Et inde pducit lectam, sc.

No Pleg³
 when by
 Original.

Then

Then write Notice to the Tenant or Tenants in Possession, as in the former Instructions in Ejectment, and serve it before the Essoin-Day of the ensuing Term — make your Affidavit of Service *glis.*

of the Declaration (for which see before) * The Rule and move for Judgment against the casual ^{by Consent on} Ejector, and draw up the * Rule if the Tenant do not appear, and leave a Rule at ^{is the same as the fore-going Rule,} the Judge's Chamber.

And if the Rule be left, then take it leave out *E* from the Judge's Chamber and enter it with *impon' com-* the Clerk of the Rules as before, and *mune ballium*, write your Declaration *de novo*, copy- ^{and instead of billam suam} wise for your Issue, which must be of the ^{insert breve} same Term, (*viz.* of *Hillary*) your first *suum.* Declaration being of *Michaelmas*, and then instead of *C. D.* the casual Ejector, your first Defendant, put in the Name of the new Defendant mentioned in the Rule left in the Judge's Chamber, and his Addition; for that is necessary in this Action, and so alter the Declaration as to the Defendant's Name, and leave out the Notice to the Tenant, as in the former Instructions, and the Defendant's Attorney must plead *Non culp'*.

Note, You should write the Declaration copy-wise, and make the Defendant's Attorney a Copy thereof, for which he now pays Six-pence *per Sheet*; then draw up your Issue; but you must not begin *Memoandum quod die*, &c. but leave out all the *Memoandum*, and begin as the Declaration begins, and then the Imparlace, as follows:

Et p̄dictus C. D. (the new Defendant) p̄ J. C. Attornatum suum vñ & defend vñ & injuriā quando, &c. Et die quod ipse in nullo est culpabilis de Transgr & Exec̄ō p̄dict p̄t p̄dictus A. B. (the Plaintiff) supius versus eum queritur & de hoc p̄nū se sup' Partiam & p̄ A. B. s̄lit, &c. Id p̄cept' est Vñc qd vñ fac̄ cor' Dño Rege in Octab Pur Weate Marie (the last Return of the same Term) ubiunque tunc dictus Dominus Rex fuit in Anglia duodecim, &c. p̄ quos, &c. & qui nec, &c. ad Recognd, &c. quia tam, &c. Idem dies dat est partibus p̄d, &c.

Cop' exit.

Deliver a Copy of this Issue to the Defendant's Attorney, for which he must also pay you Six-pence *per Fol.* and for entering Plea and Warrant of Attorney, Two Shillings and Eight-pence. He should also pay for entering the Rule Two Shillings, it being his Rule, not the Plaintiff's, and give him Notice of Trial, as before.

Here

Here note, That your *Venire* which is K.'s Bench-mentioned at the End of the Imparllance, must be returnable on a general Return-Day as in Octab Pur Beate Marie, as in *Ret' ubicunq;* common Pleas; but it must be also *ubis cunque tunc fuerimus in Anglia*, in which it differs from the common Pleas; and the true Reason of this Difference is, because in ancient Times the Court of King's Bench was not fixed or held in any particular certain Place, as now it is, but followed the King's Court, and was held wherever the King was: And also you must observe, That all your other Writs in this Way of Proceeding, as well the *Distringas* before the Trial, as the Writ of Possession, and other Executory Writs after the Trial, must also be returnable on a general Return-Day, *ubicunq;* *tunc fuerimus in Anglia*, and the *Jurat* of the Record of the *Nisi Prius* must be as after-mentioned.

Having made your *Venire* returnable on a general Return-Day *ubicunque tunc fuerit in Anglia*, you must get it returned by the Under-Sheriff, and then make out your *Distringas* as in the former Proceedings; only it must be returnable on a general Return-Day, as a die Pasche in *quindecim dies ubi cunque tunc fuerimus in Anglia*, (viz.) the the First Return of the ensuing Term: Then make up your Record, of which the First *Placita* must be exactly as in the ¹ *Placita.* other Way, only you must leave out the *Memorandum*, and begin with the Declaration, as you did in the Issue.

K.'s Bench. After you have engrossed the Declaration and Plea, and the Second *Placita* is inserted, you come to the Jurat which must be Jurat int A. B. p Attornatum suum quer & C. D. (Addition as in the Declaration) de placito Transgr & Ejectionis firme ponitur in Respectum eozam Domino Rege ubicunque tunc datus Dominus Rex fidit in Anglia usque a die Pasch in quindecim dies, (viz. the Return of the *Distringas*,) and the rest as in the other Jurat.

Seal.

You seal the Record at the same Office in *Grey's Inn*, and pay the same Fees; then draw your *Breviat*, in which you make a short Recital of the Declaration, and add the Plea, and that the Defendant is to confess Lease, Entry and Ouster by Rule of Court, &c.

Breviats.

Plaintiff's Title.

Deedsprov'd

Many unexperienced Attorneys are much defective in the *Breviats*; the most approved Way is, first write in the Margin or in the Middle, the Plaintiff's Title; then begin with the Person who was seized in Fee of the Premisses in Question, and under whom the Lessor of the Plaintiff your Client claims, and deduce the Title carefully and orderly from such Persons so seized to your Client, setting forth the Dates and Contents of the Conveyances, and observe how they are executed, whether by Livery of Seisin, or by Intralment, or by Lease and Release, or by Fine and Deed of Uses, or if your Client be in by Purchase, and take particular Care how to prove the Deed, as the Law requires. The Chirograph of a Fine

Fine proves it self, and so doth a Deed K.'s Bench. inroll'd, according to the Statute, and so ~~it~~ doth every ancient deed, where Possession hath gone accordingly.

If all the Witnesses to a later Deed are Witnesses dead, you must endeavour to prove that they are dead, and that their Names set as Witnesses to the Deed are of their Hand Writing, and to prove the Grantor's Hand: And sometimes it is necessary, if it be not an old Title, to prove the Person seized, and in Possession, under whom you claim.

If you claim by Will, which is not Will. proved in Chancery, a Copy of the Will out of the Spiritual Court, is no Evidence for that Purpose; but you must have the Will it self out of the Office, which the Proctors there will put you in a Way to obtain upon Security: And if the Will be proved in Chancery, you must have a Copy of Bill, Answer and Depositions, and prove them true Copies examined with the Records; but if the Witnesses to such Will, are living, they must prove the same *viva voce*, or else make proper Affidavits, that they are in an ill State of Health, &c. to induce the Court to read such Depositions.

If your Client be in by Discent, prove Discent, the Ancestor seized in Fee under whom you claim, and set forth and prove your Pedigree, and likewise draw it in the Form of a Pedigree in the Margent of your Declaration, that your Counsel may apprehend it without Perplexity.

If

K.'s Bench. If the State be Copyhold, you must prove it Part of such a Manor, and you must prove the Admissions to be true Copies of the Court Rolls.

Defendant's Title. When you have set forth your Client's Title and your Proofs, it is a good Way also to set forth the Defendant's Title, or pretended Title, so far as you can come to the Knowledge of it, that your Counsel may be in some Measure informed and prepared against it.

What Titles triable by Ejectment. All Titles cannot be tried by Ejectment; for where the Entry is taken away, an Ejectment lieth not, as by Disseisins and Discents, Fines and Recoveries, and Non-claims, and Limitations, which are not here to be treated of; and therefore if your Client claim by a stale Title, as above Twenty-one Years Standing, and be not helped by Nonage, *Oustre le Mere*, Imprisonment, Coverture, &c. you will be in Danger to fail in your Action; and the like in Cases of Fines and Non-claims; so that it is safest to have the Advice of Counsel before Trial, if the Question be any Thing intricate.

Plaintiff nonsuited. And also observe, That if the Lessor of the Plaintiff doth not prove a good and absolute Title in himself, he will be nonsuited, though the Defendant have no Title at all; for the Defendant's Possession will secure him.

And also if he can make appear, That a Third Person, not concerned in that Action, hath Title in him, that shall nonsuit the Plaintiff.

Another Thing to be observed is, That K.'s Bench. the Plaintiff is sometimes nonsuited thro' ~~the~~ Inadvertency. As for Instance;

If the Mortgagor make a Lease of the Premisses for seven Years at an improved Rent, and some Time after mortgages the Lands for Payment of a Sum of Money with Interest; at the Expiration of a Year or Two, the Money not being paid, the Mortgagee brings his Ejectment against the Tenant to recover the Possession, to which the Tenant appears and makes himself Defendant, and at the Trial produceth and proves the Lease; which being prior to the Mortgage, and not expired, the Plaintiff will be nonsuited, though he hath a good Title, and by Virtue whereof he might have compelled the Tenant to attorn, if a right Method had been used.

These few Observations, as is said before, are intended for young Beginners and unexperienced Practisers, and even sometimes the more able happen to be surprized by such Accidents.

After your Trial call for your Record with the *Postea* indorsed, and your *Distringas*, and give a Rule on the *Postea*, and tax the Costs, and enter your Judgment, and take out your Writ of Possession, as in the former Directions; only you must make your Writ returnable on a general Return-Day *ubique tunc fuerit in Anglia*, as aforesaid; and say, cum, &c. p
hæve

K.'s Bench. breve nostra and not p William [and pay the Fine on the Capiatur to the Secondary's Clerk before the Secondary will tax Costs; and so you must, if you proceed in the usual Manner upon the *Latitat* upon Action of Trespass.]

But if this Action be in *London* or *Middlesex*, you take the Record and *Distringas* from the Sociat immediately after the Trial is over, and indorse the *Postea* on the Record your self.

See Instructions for entring up Judgment in other Actions.

Writ of Error.

It is generally held, That if there be a Parliament in Being, as by Adjournment or Prorogation, though not actually sitting; yet a Writ of Error returnable in Parliament-Time may be sued out; and that the Shewing the same to the Plaintiff's Attorney, is a *Supersedeas*.

Others think, it ought to be allowed before it can have the Effect of a *Supersedeas*.

But that Honourable Court is of so high a Nature, that great Care must be taken to pay due Respect and Obedience to any Process there returnable.

Observations

Observations on delivering Declarations.

When you have Bail, as is before observed, the next Thing is to draw your Declaration, wherein (in special Cases) there is often great Difficulty; and it is a Fee very usefully bestowed to advise with able Counsel upon the Declaration.

Many Causes do miscarry, and many Delays and Charges happen by Demur-
fers, Arrests of Judgment, and Writs of Error, for Want of good Advice on the Declaration at first: But Clerks (at least *Vide 2 Inst.*
for some Time) are employed only in the *Cler. and* *Townsend's* general and usual Forms of common De- and *Conn-*
clarations, of which ye may find many *wall's Tables* necessary Precedents here inserted: But to the End
the Second Part of *Instructio or Clericalis tries.*
wholly concerns Declarations, and the other Parts chiefly relate to Bars and Pleadings.

You write the Term and Year of the King on the Top of the Declaration, the County in the Margent, the Attorney's Name at the Bottom [pleg' de psequens, &c.) as before observed.

Carry the Declaration (of which you must keep a Copy) to the Defendant's Attorney: You must deliver it before the Essoin-day of the ensuing Term (which is the First general Return) or else you cannot compel him to plead that Term; and he must pay you for it 4 d. per Sheet, &c.

K.'s Bench. And note, If you do not deliver it before the Rising of the Court, the last Day of the Second Term, the Defendant may have Judgment and Costs (on a *Non Pross'* in Manner hereafter mentioned) against the Plaintiff for not declaring in Two Terms, and then you may bring an Action of Debt on the *Non Pross*.

It was the ancient Practice to write the Declaration on Parchment, and file it in the Office, for which they paid 4 d. but now that is not done; except against Attorneys and Prisoners, and when Writs of Error are brought: And the Declaration must be filed on Writs of Error, the same Term it is of.

When you cannot find out where the Defendant's Attorney lives, to deliver him the Declaration, you may engross it on Paper and leave it in the Office, which will be as effectual as if you delivered it to the Attorney; but you ought to give Notice either to the Attorney when you can find him, or to the Defendant: Or you may deliver the Declaration to the Defendant himself, or leave it at his House or Lodgings.

The First Day of the ensuing Term you make up your Paper of Rules, writing the Term on the Top, and then **A. B. versus C. D.** and so all your Causes wherein you are for the Plaintiff, one under another, and subscribe your Name at the Bottom; carry your Paper to the Clerk of the Rules, and he will enter them and give one peremptory Rule to plead

plead in about Eight Days; you pay him K.'s Bench.
1 s. 4 d. for each Rule or Cause.

You must also remember to call on the Defendant's Attorney for a Plea, before the Rules for pleading are out; and it is an usual and good Way to demand such Plea by a Note in writing in this Manner:

Mr. C.

A. { Quer petit responſ.
B. {

Jan. 2.

1727.

Pleadwell p Quer.

Or otherwise in *English*, that you expect
a Plea.

You may search the Clerk of the Pa-
pers Plea Books the Fourth or Fifth Day
of the Term, to see whether the Defen-
dant hath not put in a special Plea, as in
Abatement, or in Bar, &c. that you may
lose no Time; and for general Pleas you
search the Office-Book with Mr. Lantrow.

Of delivering Declarations to Pri- soners.

Formerly when the Defendant was com-
mitted to Gaol for Want of Bail; unless
the Plaintiff, before the End of Two
Terms next after the Arrest, did cause the
Defendant to be removed by *Habeas Corpus*
to

K.'s Bench. to be charged in Court, the Prisoner, upon common Bail or Appearance of Attorney, was discharged from Imprisonment to the Plaintiff's Prejudice: Therefore by the Statute 4 & 5 Will. & Mar. cap. 21. it is enacted, That where the Defendant is taken or charged in Custody upon any Writ out of the Courts at Westminster, and imprisoned for Want of Sureties for his Appearance; the Plaintiff, before the End of the next Term after such Writ shall be returnable, may declare against such Prisoner in the Court out of which the Writ issued, whereupon such Prisoner shall be taken or charged in Custody, and may cause a true Copy thereof to be delivered unto such Prisoner or to the Gaoler or Keeper of the Prison, or Gaoler in whose Custody such Prisoner shall be and remain; to which Declaration the said Prisoner shall appear and plead: But if he shall not appear and plead thereto, the Plaintiff in such Case shall have Judgment, as if the Prisoner had appeared and refused to plead, That in all such Declarations against such Prisoners, it shall be alledged in the Custody of what Sheriff, Bailiff or Steward of any Franchise, or other Person having Return and Execution of Writs, such Prisoner shall be at the Time of such Declaration; which Allegation shall be as good and effectual, as if such Prisoner was in the Custody of the Marshal of the Marshalsea.

The Judges of the Court of King's Bench,
have on this Act made the following Rule
for delivering Declarations to Prisoners.

FIRST, That no Copy of a Declaration
be delivered to a Prisoner in Custody, before the Day of the Return of the
Process, upon which the Defendant was
taken or charged in Custody.

Secondly, That no Rule be given for the *Vide postea*
Defendant in Custody to appear and the Form
plead to any Declaration against him, till of an Affida-
an * Affidavit be filed with the Clerk of ^{vit.}
the Rules, of the Delivery of a Copy of
such Declaration, and the Time when,
and the Person to whom the said Copy
was delivered ; and that the Defendant
was arrested, or charged in Custody, by
Process of this Court, returnable before
the Delivery of such Copy ; and that the *Vide postea*
Time when such Affidavit was filed, be the Manner
entred upon the said Affidavit by the ^{of doing} _{this.}
Clerk of the Rules, and a Copy of such
Affidavit be produced to the Prothonotary
or Secondary before Signing of Judgment.

Thirdly, If a Copy of the Declaration
be delivered against such Defendant, be-
fore *Mense Paschæ*, or *Castrinum Anima-
rum*, and Affidavit thereof made and filed,
and the Defendant doth not appear before
the End of Ten Days after *Easter* and
Michaelmas Term respectively, Judgment

R may

K's Bench. may be entred against him, if Rules have been given: But if he doth appear before the End of Ten Days after the Term, he shall imparle until the next Term; (unless the Action be in *London* or *Middlesex*, and the Defendant be in Prison within Forty Miles of *London* or *Westminster*) then tho' he doth appear before the Expiration of Ten Days after the End of the Term, he shall plead Two Days before the Essoin-Day of the next Term; and in Default thereof (Rules having been given) Judgment may be entred against him, as aforesaid.

Fourthly, If a Copy of the Declaration be delivered against such Defendant, on or after *Mensem Pascha* in *Easter-Term*, or *Craftinum Animarum* in *Michaelmas-Term*, or in *Hillary* or *Trinity-Term*, and thereupon the Plaintiff give Rule to appear and answer; then must the Defendant appear Two Days before the Essoin-day of the next Term: But if he does not appear within that Time, Judgment shall be given against him.

Fifthly, If a Writ be returnable in any Term, and a Copy of the Declaration has been delivered before the Essoin-day of the next Term; the Plaintiff in such next Term may give Rules to appear and answer: And if the Defendant does not appear and plead upon the Expiration of the Rules, Judgment shall be given against him.

Sixtly, If the Declaration be not filed K.'s Bench: before the End of the next Term, after ~~the~~ the Writ or Proces (by which the Prisoner was taken or charged in Custody) is returnable, and Affidavit made and filed in Manner as aforesaid, before the End of Twenty Days next after such Term, the Prisoner shall be discharged by common Bail, signed by one of the Justices of this Court.

Sevently, If any Gaoler or Keeper of a Prison, having received a Copy of a Declaration against any Prisoner in his Custody, shall suppress the same, and not deliver it forthwith to the Prisoner, an Attachment shall be issued against him.

John Holt, } { *William Gregory,*
William Dolben, } { *Giles Eyre.*

Before you deliver the Declaration to the Gaoler or Keeper, you must engross it on Parchment with double 1 d. Stamp and file it with the Clerk of the Narr's, then deliver a Copy on Paper with double 1 d. Stamp to the Gaoler or Keeper, asking at the same Time, if the Defendant is a Prisoner, or not? Or you may deliver it to the Defendant himself in Custody; having done this, you make another Copy of the Declaration on 1 d. Stamp, which must be annexed to the following Affidavit before you can give a Rule for the Defendant to appear and plead.

K. s Bench. A. B. of, &c. maketh Oath, That this
 Deponent did on the Second Day of May
 Affidavit of last, deliver unto the Keeper or Gaoler of
 the Delivery the Gaol-Prison of the County of Berks,
 of a Declaration a true Copy of the Declaration hereunto
 annexed, and the said Gaoler or Keeper
 then confessed unto this Deponent, That
 the said Defendant was a Prisoner in the
 said Prison, and that he would deliver the
 Declaration to him; and this Deponent
 saith, That the said Defendant was arrested
 or charged at this Deponent's Suit, by
 Virtue of a *Latitat* issuing out of this
 Court, returnable before the Delivery of
 the said Declaration.

Jur' — die — Anno
Dom' — coram me

A. B.

After you have sworn this Affidavit with
 the Declaration annexed, you may make
 a Copy of the Affidavit on double 6 d.
 Stamp, and another Copy of the Declaration
 on double 1 d. Stamp, and annex them
 together, then carry both Affidavits and
 Declarations to the Clerk of the Rules
 who will keep the original Affidavit and
 Declaration annexed, and will write on
 the Bottom of the Copy of the Affidavit,
 $\text{examinat' cum Sacro Affil'}$ — die —
 anno 12 Georgii Regis.

Then go to the Master of the King's
 Bench Office with this Affidavit and De-
 claration, and he will give you a Rule on
 the Affidavit for Time for the Defendant

to

to appear and plead, then you go back to K.'s Bench: the Clerk of the Rules, and he enters in his Paper, the Rule given by the Master, and marks under the Rule on the Affidavit, *Intratur*. And if the Defendant does not appear and plead according to the Time given by the Rule, (a Rule to plead being demanded,) you sign your Judgment against the Defendant.

Note, You need not make any Affidavit of the Delivery of a Declaration against a Prisoner in Custody of the Marshal of the King's Bench, but you give a Rule to plead of Course, with the Clerk of the Rules, and the Defendant is obliged to plead when the Rule is out, which is in about Eight Days, otherwise a Plea being demanded, you take your Judgment against him.

Note, If you charge a Prisoner in Custody of the Marshal in the Vacation, you must go to the Marshal's Book, and make an Entry *Quod remaneat in Custod' ad sectam J. S.* as you will see several Forms in that Book, and the ensuing Term you declare against him in Custody.

Having obtained your Judgment against The Man-the Defendant, you apply to the Clerk of the Rules for a Rule in Order to charge the Defendant in Execution, and he will without Motion, draw you up such Rule accordingly, for which you pay him 4 s. Make a Copy of the Rule, and serve the

K.'s Bench. same on the Marshal, who will on your
 Paying him 10 s. 6 d. write on the Bottom
 of the Rule his Acknowledgment of the
 Defendant's being in his Custody, then
 enter a *Committitur* in the Marshal's Book
 with Mr. *Lantrow*, for which you pay him
 2 d. in this Manner:

Feb. 1. 1726. Lond, ss. C. D. als dict', &c. Committi-
 * If in Case tur custos Mar' Maresc' in
 pro 50 l. in pl'ito Executione ad sectam A. B. * p 50 l. de
 transgress' su- debito & 53 s. pro missis & ibidem remansur'
 per Casum & quousqz, &c.
 ibidem, (&c.)

G. F. Attorn.

Then make out a *Committitur* on Parch-
 ment in the same Manner as above, leaving
 out the Date in the Margin, and adding
 the Term and Number-Roll of the Judg-
 ment.

You file this *Committitur* with Mr. Haw-
 ley, the Signer of the *Latitats*, for which
 you pay him 2 s. and he will deliver the
Committitur to Mr. *Lantrow*, who will enter
 it upon the same Roll your Judgment
 is of; after this Manner:

Postea scilicet pdict' die Mercurii prox'
 post quindenn' Hanc Trinitatis isto eodem
 Termino cor' Domino Rege apud Westm
 ven' pdict' A. B. in ppria plona sua Et pdict'
 C. adtunc psens hic in Cur' ad petitiond pd
 A. commissus est custos Mar', &c. in Execu-
 zione p debito & dampnis pdict' remansur'
 quousque, &c.

When

When you admit a Guardian for an Infant before a Judge, to prosecute and defend, do in this Manner:

Take a Piece of Parchment like a Bail-piece, then write thus:

Admission of
a Guardian
for an Infant
before a
Judge.

Sonis, II.

J. B. qui infra etat viginti
& unius annorum existit
admissus est p Cur' Dni
Regis coram ipso Rege
p J. S. Gen' Guardian
sui ad prosequend & de-
fend omnes & omnimod
Actiones & Actus in eas
Cur' dependet ad lect'
W.B.

R. Raymond.

You must
carry this to
the Clerk of
the Rules
and file and
enter it with
him, for it is
no Record,
until you
have done so,
and the
Clerk of the
Rules will
draw you up
a Rule upon
this Admis-
sion.

Of Pleas.

PLeas are either General or Special.

A general Plea is pleaded on a little Piece of 2 d. stamped Paper, without Counsel's Hand, only the Defendant's Attorney's Name to it, and he pays the Plaintiff's Attorney for entring it; as in Case thus :

Non Assumpsit p J. C. sol' 16 d. [or
Non Cul, **N**on est fac', **N**il debet, &c. as
the Case is.]

Jan. 4. 1726. Cunningham p Def.

Special Pleadings are drawn up in Form, setting forth the Matter pleaded at Large, with an apt Conclusion to the Declaration, or to the Action, as the Case is, and must be signed by Counsel, or else cannot be received.

And by Rule of Court *Mich. 2 W. & M.* such special Pleadings must be left with the Clerk of the Papers, and entered into the Book of the proper Clerk, and not delivered to, or received by the Attorney.

They are generally of two Sorts: Pleas in Abatement, which we may call Temporary; for they do not go to destroy the Action, but only stop it for a Time until the Obstacle pleaded be removed.

As to plead, That the Plaintiff is ex-K.'s Bench. communicated, or is outlawed; that doth ~~not~~ not destroy the Action, but only suspend it till the Plaintiff take off his Excommunication, or reverse the Outlawry, and then he may proceed in his Action.

Or, That the Plaintiff is an Alien Enemy; for he may be made a free Denizen or naturalized, and then the Obstacle is removed.

A Misnomer of the Defendant's Christian or Surname, or naming him Executor, when he is Administrator, the Plaintiff may bring a new Action without paying Costs by the right Name, or as Administrator.

Pleas in Abatement are very various: Of Pleas in For Instance; To the Name, the Addition, Death, Covert-Baron, one of the Executors or Administrators not named, Infancy in Plaintiff or Defendant, (tho' Infancy in the Defendant may also be given in Evidence at the Trial, and will non-suit the Plaintiff, tho' not pleaded) other Actions depending; Privilege, That the Defendant is an Attorney of the Common Pleas, and ought not to be sued in the King's Bench, (except the Plaintiff be an Attorney of King's Bench) and the like.

Whereof in *Townsend's Tables*, and *Cornwal's* new Tables to the Entries, you will find References to good Precedents, and also in *3 Inst. Cler.*

Formerly those Pleas were often merely dilatory, and therefore it was enacted by Stat. 4 & 5 An. for the Amendment of the Law,

K.'s Bench. Law, That no dilatory Plea should be received in any Court of Record, unless the Party offering the same, doth by Affidavit prove the Truth thereof, or shew some probable Matter to the Court to induce them to believe that the Fact of such dilatory Plea is true.

The Form of an Affidavit.

In B. R.

A. B. & C. D.

C. D. the Defendant in this Cause maketh Oath, That the Substance and Matter of Fact, in the Plea hereto annexed, is true.

Another Form.

Misprision of E. F. Gent. maketh Oath, That the Liberty of E. is in the County of S. and not in the County of M. as the Plaintiff by the Declaration hereunto annexed, hath alledged.

But if the Plea be for a Filazer, or other Officer, there need not be any Affidavit, but a Copy of the Grant of the Office affixed to the Plea.

Note, Where a Declaration is delivered before the Essoin-Day of the Term, the Defendant hath Four Days in that Term to

to plead in Abatement — But if he plead K.'s Bench, not till after the Four Days are expired, ~~then~~ then it is after Imparlane.

Within the Four Days of the Term the Plaintiff is bound to take it without Imparlane, but after the Four Days an Imparlane must be entered.

A Plea in Abatement must conclude to the Declaration ; as, *Et hoc paratus est verificare unde pet Judic de Will (or Parr) pō & qd Villa illa cassetur.*

Or, If the Plaintiff be an Alien Enemy, *Unde pet Judic si pdic' A. (the Plaintiff) ad Willam pō respond debeat, ac.*

It may not be amiss to insert one Precedent for our Young Clerk's Instruction.

Misnomer of the Surname.

Et pdic' Carolus p Jacobum Cunningham Attornat suum venit & defendit vim & insur, ac. (but you must not put quando, as in Pleas in Bar) Et pet Judic de Willa pō quia dic qd ipse pō Carolus nominatur & voc p nomen Caroli Dolson ac p eadem nomen & cognomen a tempore Nativitatis sue hucusque semper cognit & vocat fuit & non p nomen Car' Dodson pte in Willa pdic' superius nominatur Et hoc paratus est verificare Unde pet Judic de Willa pdic' & quod Villa illa cassetur.

E. F.

The

The Replication.

Et pdic' A. B. dic' quod p aliqua p pdic'
 Carolum superius placitando allegat Willa
 sua pdic' cassari non debet quia dic' quod id
 Carolus nominatur & voc' & die exhibitionis
 ville pdic' nominal & vocat fuit tam p nom
 Caroli Dodson quam per nomen Caroli
 Dolson Et hoc pet' quod inquiratur p patria,
 &c.

G. H.

The Defendant's Attorney must be cautious how he rejoins to the Plaintiff's Replication; for if he join Issue, and it be found against him, the Judgment is final: The usual Way is to demur to the Replication, and then the Judgment can be but a *Respondeas Ouster*; that is, the Defendant shall plead another Plea, which may be either special or general, and such Plea must be pleaded in — Days.

Pleas in Bar. Note, That Pleas in Bar may destroy the Plaintiff's Action for ever; as if the Defendant pleads a general Release.

Also as a Plea in Abatement concludes to the Declaration, so in Bar it must conclude to the Action; as *Et hoc parat' est verificare unde pet' Judic' si prædict' A. B. action' suam prædict' inde versus eum babere seu manuteneat debeat, &c.*

Special

Special Pleas are left with the Clerks of K.'s Bench, the Papers: Either with Mr. *Benton* or ~~Mr. Russel~~, *viz.* with Mr. *Benton*, when the Plaintiff's Name begins with *A.* and with Mr. *Russel*, when the Plaintiff's Name begins with *B.* and so alternative thro' the Alphabet; therefore when you are for the Plaintiff, you carry your Declaration to the Clerk of the Papers, and he will make up your Paper-Book; or you may take a Copy of such Plea from him, and make it up yourself copywise, and let him peruse it, and he will write a * Rule on the Side* It is said, of the Book to this Purpose, That if the Defendant do not receive the Paper-Book, and return it to be entered in Four Days, then a *Non pross'* may be entered; you pay the Clerk of the Paper 10 d. per Sheet for the Paper-Book, besides the Stamps.

You deliver this Paper-Book to the Defendant's Attorney, and at the same Time give him Notice of Trial on the Back of the Book; and if the Defendant's Attorney does not return the Paper-Book according to the Rule, you take your Judgment, and execute your Writ of Enquiry on the Day given for Trial; but if he returns the Book in Time, and will stand to the Plea pleaded, and pays you 8 d. per Sheet for the Pleadings on his Part; you proceed to Trial according to the Notice; but if the Defendant's Attorney will not proceed to Trial, but demurs to the Plaintiff's Replication; he first scratches out, at the Bottom of the Replication, his Joining Issue, and leaves a Demurrer in the Office, and

K.'s Bench, and returns the Paper-Book to the Plaintiff's Attorney with Notice thereon, that he has left a Demurrer in the Office.

Whereupon the Plaintiff's Attorney carries the Paper-Book to the Clerk of the Papers, and he will add the Demurrer and Joinder in Demurrer, and then the Plaintiff's Attorney delivers the Paper-Book again to the Defendant's Attorney; which if he does not return to the Plaintiff's Attorney in a Day, and pay him 8*d. per Folio* for the Pleadings on his Part, you sign your Judgment; but if he does return it and pay you, you make an *Incipitur* on the Roll, and enter the Proceedings with Mr. Lantrow; then give your Roll to your Counsel, and he will move for a *Concilium*, and the Clerk of the Papers will mark in the Margent of the Record *Lect'*; you draw up the Rule thereupon, with the Clerk of the Rules; enter your Cause in the Clerk of the Paper's Book, and serve the Rule on the Defendant's Attorney, and make up the Books for the Judges: You pay each of their Clerks 2*s.* then by Counsel you argue the Demurrer; and if Judgment goes for the Plaintiff before the Expiration of the Notice for Trial, you may execute your Writ of Enquiry the same Day on which Notice was given for Trial, in Pursuance of a Rule made 6 Georgii, to the Effect following: Reciting that, whereas Plaintiffs were greatly delayed by the Defendants Demurring after the Plaintiff had taken Issue upon the Defendants Plea, and had delivered

vered the Paper-Book with Notice of Trial ac- K.'s Bench. cording to the Practice of this Court, for that, that after Judgment obtained for the Plaintiff, upon such Demurrer, there is not sufficient Time in Term to give Notice of Executing a Writ of Enquiry within the Term, in which Judgment was obtained: Therefore it is ordered, That where the Plaintiff upon the Plea of the Defendant concludes ad P'riam, and shall give Notice upon the Paper-Book of Trial, as aforesaid; and thereupon to impede the Trial, the Defendant shall demur in Law upon the Replication, or to the Plea of the Plaintiff, and the Plaintiff shall join in such Demurrer, and he thereupon shall obtain Judgment; the Attorney for the Defendant shall be obliged to accept of Notice of Executing a Writ of Enquiry of Damages from the Time given of Notice of Trial, on the Paper-Book as aforesaid.

Note, It is said, That the Defendant may, upon his Returning the Book with the Joinder in Demurrer, scratch out the Demurrer and Joinder, and give the Plaintiff his Book with the general Issue, without being obliged to accept of Notice of Trial, from the Time given on the Paper-Book; but the Plaintiff may, to prevent this Delay upon the Defendant's Plea coming in, move the Court that the Defendant may plead *instanter* a Plea to stand to, and not wave; draw up the Rule and serve it, and the Defendant will be confined accordingly.

K.'s Bench. Note, That if the Plaintiff refuses to reply, you may have a Four Day's Rule from the Master for that Purpose, which you enter with the Clerk of the Rules, and serve on the Plaintiff's Attorney, and if he does not reply in Time, you sign your *Non pros*'.

Vide several Precedents of *Non pros*' after the Demurrs. And *vide* at the End of the Issues and Demurrs concerning Paper-Books, made up on Demurrs; and on Issues to Part of the Declaration, and Demurrer as to the other Part.

Of Issues.

Non Assump' by one Defendant, and *Non Inform'* by another, the same Term of the Narr'.

Et pdict A. B. p C. D. Attorn suam vend & defend vim & injur quando, sc. Et idem A. dicit quod ipse Non Assumpsit sup se modo & forma put pdict' J. superius versus eum queritur Et de hoc pon se super Patriam Et pdict' J. satis, sc. Et super hoc pdict' J. pet quod pdict' E. ad Narr suam pdict responde sup quo idem Attorn pdict' E. dic quod ipse non est inform p pdict' E. de aliquo respons inde eidem J. in pmis dñe nec aliquo aliud dic in barram sive exclusion Actionis ipsius J. pdict' p quod idem J. remanv inde versus eundem E. inde sens

— Ob

— Ob quod propter J. dampna sua bealus prefat' K's Bench.
 E. occasione non performac*ō*n permission*ō* & als
 sumpc*ō*n propter E. propter recuperare debeat sc. Sed
 quia Cur*ā* dia' Domini Regis cor*ā* ipso Re
 ge incognit*ē* erexit quād dampna propter J. occasione ill'
 sustinuit Ideo tam quoad trian*ō* exit' propter int'
 prefat' J. & propter A. supius in forma propter jun*ā*
 quam quoad inquirend*ō* que dampna propter J.
 sustinuit tam occasione non performac*ō*n permis*ō*
 sion*ō* & assump*ō*n ill' quam per mis*ō* &
 custag*ē* suis per ipsum circa sect*ā* sua in hac
 parte app*ō*n*ū* v*e*n*d*e Jur*ā* coram Domino
 Rege apud Westm*ā* (sc. ut in al'.)

Cogn*ā* Action*ā* pro part*ā* & Nihil debet per
 Priiam for the Residue,

Quando sc. Et quoad 5 l. de propter 15 l.
 quas propter Quer*ā* supius exigit bealus eum vir
 tute Bille propter idem Def. dic quād ipse non pos
 test dedicere actionem propter Quer*ā* nec quin
 Billa illa sit factum ipsius Def. nec
 quin ipse debeat prefat' Quer*ā* easdem 5 l.
 modo & forma put idem Quer*ā* superius
 versus eum inde Narravit Ideo cons*ē* est quād
 pd*ict*' Quer*ā* recuperet versus prefat' Def. easd*ē*
 5 l. Et pd*ict*' Def. in M*ā* sc. Et quoad
 pd*ict*' 10 l. de pd*ict*' 15 l. resid quas pd*ict*'
 Quer*ā* supius ex comp*ō*p*ter* exigit bealus eum id*ē*
 Def. dic quod ipse non debet prefat' Quer*ā*
 easdem 10 l. nec aliquem inde denar modo &
 forma (sc.) Et de hoc poni*m* (sc.) Ut quia
 conveniens & necesse est quād unica fiat caratio
 dampno*rum* per uno integro debito pd*ict*' si
 S conting*ē*

K.'s Bench. contинг' Iudicium de pdia' 10 l. quas idem
 ~~~~~ Quer' supius in cōm̄o exigit versus pfat'  
 Def. eidem Quer' reddi Ioeo casset taxatio  
 dampn ill' quoisque pdia' plic' de eisdem  
 10 l. inter partes pdia' terminetur, &c. Et  
 quoad triād exi' pdia' vēd inde Jur' (ut  
 in al.)

*Non Assumpſit to the Second and Third  
 Promise, and a Delivery of a Piece  
 of Woollen Cloth to the first Promise.*

Et quando &c. Et quoad secundam & ter-  
 ciam pmmission & assump̄ion in Narr' pa-  
 dia' superius content' die quod ipse non al-  
 sumpsit super se modo & forma put predi-  
 A. B. superius v̄lus eum queritur Et de hoc  
 pon̄ se sup Patriam Et pdic̄us A. sicut' Et  
 quoad primam pmmissionem & assump̄ion im-  
 eadem Narr' supius content' idem C. die q̄r  
 predictus A. acionem suam predictam inde  
 versus eum habere seu manutenere non debet  
 quia dic̄ quod post Conſec̄ion note & assump̄-  
 ion in dia' Narratione primo menconat  
 & ante exhibic̄ion bille p̄d ipsius A. scilicei  
 tricesimo die Junii anno Domini millime  
 septingentimo vicesimo secundo supradict  
 ipse idem C. dedit & deliberavit p̄fet' A. bona  
 & catalla videt unam peciam Drappi vocat  
 Woollen Cloth, ad valenc̄ decem librarum  
 in plenam satisfactionem & exonerac̄ion pri-  
 me pmmission & assump̄ion pdia' Que quidē  
 bona & catalla pdic̄us A. adiunc & ibidem in  
 plena satisfactione & exoneracione prime pro-  
 mission & assump̄ion p̄d de eodem C. ha-  
 buit & acceptavit Et hoc parat' est verificare

unde petit Iudic<sup>e</sup> si p<sup>o</sup> A. actionem suam p<sup>o</sup> K's Bench.  
inde versus eum habere seu manutenere   
debeat sc.

Repl. Et p<sup>o</sup> A. B. dic<sup>e</sup> q<sup>d</sup> ipse p aliquam p  
p<sup>o</sup>dia' C. D. supius p<sup>l</sup>itando allegat' ab  
actione sua p<sup>o</sup> quoad primam pmissionem &  
assumptionem in N<sup>r</sup>re p<sup>o</sup> superius content'  
versus eum habendo p<sup>l</sup>cludi non debet quia  
prestando quod p<sup>o</sup> C. non dedit & deliberavit  
p<sup>o</sup>fat' A. p<sup>o</sup> bona & catalla vide<sup>t</sup> p<sup>o</sup> unam  
peciam Drappi vocat' Woollen Cloth pro  
p<sup>l</sup>ito idem A. dic<sup>e</sup> quod ipse non habuit neq<sup>z</sup>  
recepit p<sup>o</sup>dia' bona & catalla modo & forma  
put p<sup>o</sup>dia' C. supius p<sup>l</sup>itando allegavit & hoc  
pet' quod inquiratur p Patriam Et p<sup>o</sup>dia' C.  
s<sup>i</sup>lit' sc. Jo quoad triano tam exit' i<sup>l</sup>l' quam  
p<sup>o</sup>dia' al<sup>l</sup> exit' int' partes p<sup>o</sup>dia' superius s<sup>i</sup>lit'  
junct' v*en* inde Jur (ut in af.)

*Non Assump*s* infra sex annos.*

Et modo (sc.) Et dic<sup>e</sup> quod p<sup>o</sup> A. actionem  
suam p<sup>o</sup>dia' inde versus eum habere seu ma-  
nutenere non debet quia dic<sup>e</sup> quod p<sup>o</sup>dia' A.  
..... die ..... Anno Reg<sup>e</sup> dia' Dom<sup>e</sup>  
Regis nunc ..... Willam suam p<sup>o</sup>dia'  
versus ipsum C. exhibuit quodq<sup>z</sup> ipse idem C.  
ad aliquod tempus infra sex annos p<sup>x</sup> ante  
diem exhibic<sup>o</sup>n<sup>e</sup> Bille p<sup>o</sup>dia' Non assump*s*  
sup se modo & forma put p<sup>o</sup>dia' A. superius  
inde versus eum narravit Et hoc parat' est  
verificare unde pet' Iudicium si p<sup>o</sup>dia' A. Ac-  
tionem suam p<sup>o</sup> inde versus eum habere seu  
manutenere debeat, sc.

K.'s Bench: Repl. Et pō' A: dicit quod ipse per aliqua per pō C. superius p̄litando allegat' ab actione sua pō inde h̄lus eum habend̄ p̄cludi non debet quia die qd pō C. infra sex annos assump̄it super se modo & forma p̄t pō A. superius h̄lus ipsum C. narravit Et hoc petit quod inquiratur per Patriam Et pō C. s̄lit' Ideo veid̄ inde sur' (sc. ut in al.)

*Non Assump̄it generally to Part, and Non Assump̄it infra sex annos to the other Part.*

Et pdict' Def. per A. B. Attoī suum vend̄ & defend̄ vim & injur quando sc. Et dicit qd pdict Quer' actionem suam pō inde versus eum habere seu manutener non debet quia dicit quod quoad primam p̄mission & assump̄con in Parr pō superius fieri suppōit' idem Def. dicit quod ipse non assump̄it super se modo & forma p̄t pō Quer' superius h̄lus eum queritur Et de hoc ponit se

\* This when super P'riam \* Et pō Quer' inde s̄lit' sc. Issue joined. Et quoad resid p̄mission & assump̄con in Parr pō superius fieri suppōit' idem Def. dicit qd ipse pō Quer' ad aliquod tempus infra sex annos prox' ante diem exhibicōn bille pō Quer' pō non assump̄it super se modo & forma p̄t pō Quer' superius inde versus eum queritur Et hoc parat' est verificare unde, (sc. ut in al.)

*Plene Administravit.*

Et modo (sc.) (actionem non sc.) quia die quod ipse tempore exhibicōn Bille pō Plene

Plene administravit omnia bona & catalla q̄ K.'s Bench.  
 uer' p̄d J. tempore mortis sue in manibus  
 suis administrand̄ per qđ p̄d C. de fum suum  
 p̄d pfat' A. solvere non potuit Et hoc parat'  
 est verificare unde, (sc.)

Repl. Et p̄d A. (p̄cludi non, sc.) quia  
 sic qđ p̄d C. habet & tempore exhibicōid  
 Bille p̄d videlicet (cali die & anno) apud, (sc.)  
 habuit diversa bona & catalla que fuer' p̄d J.  
 [Testatoris] tempore mortis sue in mani-  
 bus suis administrand̄ ad valenc, (sc.) unde  
 dem A. de debito p̄d satisfacere potuit vi-  
 velicet apud S. in Corid p̄d Et hoc petit  
 quod inquiratur p̄ Patriam Et p̄d C. s̄lit,  
 sc. Ideo vēd sc.

*Non dimisit.*

Et modo (sc.) Et idem C. defend̄ vim &  
 injur quando, sc. & dicit quod p̄d A. non  
 dimisit eidem C. Mesuagium sive tenemen-  
 tum p̄d & cetera p̄missa cum priid modo &  
 forma p̄t p̄d A. superius versus eum que-  
 ritur Et de hoc pon̄ se super Patriam Et  
 p̄d A. s̄lit, sc. Hō vēd inde Jur (sc.)

*Non detinet per Patriam.*

Et modo (sc.) Et idem C. defend̄ vim &  
 injur quando, sc. Et dic̄ quod ipse non de-  
 tinet p̄fet A. bona & catalla predic̄ in

K.'s Bench. Narr<sup>r</sup> p<sup>b</sup> specificat' nec aliquam inde parcellam modo & forma p<sup>b</sup> A. superius flos eum queritur Et de hoc p<sup>b</sup> se super P'riam Et p<sup>b</sup> A. silit sc. Id (sc.)

*Comperuit ad diem to a Bail-Bond.*

Et modo (sc.) Defend vim & injur quan-  
do sc. Et pet' auditum Scripti Obligato-  
rii p<sup>b</sup> Et ei legitur sc. pet' etiam auditum  
Condition ejusdem Scripti Et ei legitur in  
hec verba, scilicet, (the Condition, &c. set-  
ting forth the whole Condition ; also he  
may set forth the Obligation if it be to  
his Advantage) Quibus lectis & auditis id  
C. dic<sup>r</sup> quod p<sup>b</sup> A. Accord suam p<sup>b</sup> inde  
versus eum habere seu manuenerere non des-  
bet quia dic<sup>r</sup> quod post Consec*tion* Scripti  
Obligatorii p<sup>b</sup> & ante diem exhib*ition* Bills  
le p<sup>b</sup> ipsius A. scilicet die, (sc. compa-  
rene) pr' sequend post dat Script Obliga-  
torii p<sup>b</sup> p<sup>b</sup> C. comperuit coram dia' Domi-  
no Rege nunc ad respond p<sup>b</sup> A. in pla-  
cito debiti p<sup>b</sup> secundum formam & effectum  
Condition Script Obligatorii p<sup>b</sup> Et hoc pa-  
rat est verificare p<sup>b</sup> Record Ballii inde in Cus-  
todi Domini Regis nunc coram ipso Rege  
apud Westm p<sup>b</sup> remane*n* unde pet Judic-  
i p<sup>b</sup> A. action (sc.)

*Aliter in Transgr<sup>r</sup>.*

(Accord non) quia dic<sup>r</sup> quod ipse compes-  
ruit coram Domino Rege apud Westm p<sup>b</sup>  
p<sup>b</sup> dia'

predic' die (sc.) ad respondend p̄fāt A. in K.'s Bench. Condicōn p̄o supius nominat de p̄o p̄lito transgr secundum formam & effectum Condicē ille cusus quidem C. comparenc vici' Cur dici' Dom Regis coram ipso Rege apud Westm adiunc & ibidem recordabatur p̄ut p̄ Record inde in eadē Cur ipsius Domini Regis coram ipso Rege apud Westm p̄o residen liquet manifeste Et hoc parat' est verificare p̄ Record ill' unde (si accord) (sc.)

Repl. (Precludi non) quia dic' quod non h̄ec tale Recordum Comparenc p̄o C. fact' coram dici' Domino Rege apud Westm p̄o die (sc.) in eadem Curia dici' Domini Regis coram ipso Domino Rege apud Westmonasterium p̄o remanend qual ipse p̄o C. supius allegavit Et hoc (sc.) unde pet' Iudicium & debitum suum [if in Debt] unacum dampnis suis occōne detençōn debiti ill' sibi adjudicari, sc.

Repl. In Trespass and Case. Unde pet' Iudicium & dampna sua occōne transgr p̄o (or occōne premis') sibi adjudicari, sc.

Rejoinder. Et p̄o C. dic' quod h̄ec tale Record comparenc ipsius C. fact' coram ipso Domino Rege apud Westm p̄o die (sc.) in p̄o Cur dici' Domini Regis coram ipso Rege apud Westm p̄o remanend qual ipse supius allegavit Et hoc parat' est verificare p̄ Record ill', sc. Ideo p̄cep' est eidem C.

K.'s Bench. quod habeat hic (tali die) Recordum illius sub  
l<sup>o</sup> suo piculo, &c.

Vide 4 Inst.

Clericalis 287.

Hansard's

Ent. 115.

### Conditions performed to a Bond.

Et modo, (sc.) Et pet', (sc.) Quibus  
lectis, (sc.) Action non) quia die quod ipse  
idem C. in & sup primum diem Maii in  
Conditione p<sup>o</sup> superius spec' solvit prefat'  
A. p<sup>o</sup> 20 l. in eadem Conditione superius  
mentionat' quas ei ad eundem diem solvisse  
debuit secundum formam & effectum dicti'  
Conditioni videlicet apud (sc.) Et hoc pa-  
rat' est verificare unde pet' (sc.)

Quer' (p<sup>o</sup>cludi non) Quia die quod pred  
C. sup p<sup>o</sup>dia' primum diem Maii superius  
mentionat' non solvit prefat A. 20 l. p<sup>o</sup>dict'  
in Conditioni pred superius mentionat' se-  
cundus formam & effectum Conditioni pred  
modo & forma p<sup>o</sup>t pred C. superius placi-  
tando allegavit Et hoc pet' quod inquirat'  
p<sup>o</sup> P<sup>r</sup>iam Et pred A. sili' Ideo veni (sc.)

### Infra Etat.

Et modo (sc.) (Action non) quia die qd  
ipse idem C. tempore confectioni Script' obl'  
pred fuit infra etatem viginti & vii annos  
rum [viz. Etat' 17 annorum & non amplius]  
Et hoc (sc.) unde (sc.)

Repl. Quer' (p<sup>o</sup>cludi non) quia die qd  
pred C. tempore confectioni Script' obliga-  
torii

torii pō fuit plenū etat' vigint' & unū annū K.'s Bench.  
nōzū modo & forū pūt pō C. superius  
plicand allegavit Et hoc pēt quod inquirat  
p P'rīam Et pō C. similit, sc. Ideo (sc.)

Or thus, *Infra AEtat.*

Et modo (sc.) (Accōnd non) quia dicē qđ  
ipse idem C. tempore confectionū separat p=  
mīcon & assumpcionū in Part pō superius  
mentionat' fuit infra etatem viginti & unius  
annozum Et hoc (sc.) unde (sc.)

*Per Dures.*

Et modo (sc.) Et dicē quod ipse de debito  
pō virtute Script' pō onerari non debet quia  
dicē quod ipse tempore confectionū Scripti  
pō fuit imprisonat pō A. & al de covina  
sua videlicet apud B. in Com pō & ibidem in  
prisona detent' quoisque id' C. p vim & dur  
ritiam imprisonmenti ill' script' illud pfat  
A. adtunc & ibidem fecit sigillavit & ut fact  
um suum eidem A. deliberavit Et hoc (sc.)  
unde pēt Iudic' si ipse de debito pō virtute  
script' obl pō onerari debeat, sc.

Repl. (Precludi non) quia dicē qđ pō C.  
tempore confectionū scripti pō fuit sui juris  
ad largum & extra quamlibet prisonam &  
scripti' illud ex mera & spontanea voluntate  
sua eidem A. fecit sigillavit & ut factum  
suum deliberavit & non p vim & duritiam  
impri-

K.'s Bench. imprisonmenti prout p̄d C. superius placitando allegavit Et hoc pet quod inquiratur per Patriam Et p̄dia' C. s̄lit, sc. Ideo (sc.)

## Per Minas.

Quando sc. (Actionē non) quia dicē quod p̄d A. tempore confectionē script̄ obī predict̄ eidem C. tales & tant̄ minas de vita sua & mutilationē membrorum suorum sibi inferend̄ nisi ipse script̄ p̄dit̄ p̄fāt̄ quee facere & sigillare vellat apud E. p̄dia' imposuit quod idem C. Scriptum p̄dit̄ obmetum minarum ill' p̄fāt̄ A. adiunc & ibidem fecit Et hoc (sc.) unde (sc.)

Repl. (Precludi non) quia dicē quod p̄d C. tempore confectionē script̄ p̄d fuit sui iuris ad largum & script̄ illud ex mera & spontanea voluntat̄ sua eidem A. adiunc & ibidem fecit & non ob metum minarū put p̄d C. superius placitando allegavit Et hoc pet quod inquiratur p̄ Patriam, sc.

## Son Assault Demesne.

Et modo (sc.) Defend vim & insuriam quando, sc. Et quoad venire vi & armis seu quicquid quod est contra pacem dicit̄ Dominus Regis nunc dicit quod ipse non est inde culpabilis Et de hoc ponit se sup Patriam Et p̄d A. sili', sc. Et quoad resid transgredit̄ supius fieri supposit̄ idem C. dic̄ qd p̄dit̄

pdic' A. Actionū suam pdic' inde versus K.'s Bench.  
 eum habere seu manutene non debet quia  
 dic' qd pō A. die & anno suprad in Narr pō  
 A. superius specificat apud E. pō in Com  
 pō vi & armis in ipso C. insult fecit & ip  
 sum C. adtunc & ibidem verberasse vulnerasse  
 & maletractasse voluisse nisi idem C. seipsum  
 erga p̄fāt' A. adtunc & ibidem cito des  
 fendisset Et sic idem C. dic' quod malum  
 vel dampnum si quod eidem A. adtunc &  
 ibidem evenit hoc fuit de insult' ipsius A.  
 p̄p' Et in defensione ipsius C. Et hoc,  
 (sc.) unde, (sc.)

Repl. Et pdic' A. dic' quod ipse (p̄clus  
 di non, sc.) quia dic' quod pō C. de in  
 suria sua p̄p' & absq' tali Causa p̄ ipsum  
 C. supius placitando allegat' in ipsum A. in  
 sult' fecit & ipsum A. verberavit vulneravit &  
 maletract' modo & form' put pō A. supius &  
 sus eū quer' Et hoc pet' (sc.) Ideo ven' (sc.)

Non culp' by C. quoad tot' transg' & in  
 sult', Non culp' by the Wife of C. quoad vi  
 & armis, &c. and son assault' demesne by  
 the Wife quoad tot' resid' transg' & insult'.

— These Pleas were pleaded to a Declara  
 tion brought against C. and Anne his  
 Wife, for a Trespass and Assault committed  
 by them on the Wife of A.

Et pō C. & Anna p W. N. Attorū suū Non Culp'  
 ven' & defend vim & insur' quando, sc. Et & son assault  
 quoad tot' transg' & insult' p̄ ipsum C. in demesne.  
 narr' pō supius fieri suppōit idem C. dic'  
 quod ipse non est inde culpabilis & de hoc  
 pōiv

K's Bench pō se sup Patriam Et pō A. & Sara inde  
 sit' Et quoad venire vi & armis seu quicquid  
 quod est contra pacem dicti Domini Regis  
 nunc p ipsam Annam in Narr pō supius  
 fieri suppōit' Idem C. & Anna dicē quod eadē  
 Anna non est inde culpabil & de hoc pō se  
 sup Patriam Et pō A. & Sara inde sit'  
 Et quoad tō resū transge & insult p ipsam  
 Annam in Narr pō supius fieri suppōit'  
 Idem C. & Anna dicē quod pō A. &  
 Sara actionī suam pō inde vers eos habere  
 seu manutinere non debent quia die quod  
 pō Sara die & anno in Narr pō supius  
 mentionai' apud Paroch pō in Com pōia'  
 in ipsam Annam insult fec & ipsam Ann  
 adtunc & ibidem verberasse vulnerasse & male  
 tractasse voluit p quod ipsa eadem Anna se  
 ipsam erga eandem Saram adtunc & ibidem  
 defendebat put ei bene licuit Et sic iidem C.  
 & Anna dicē quod si aliquod dampnum vel  
 malum eidem Sare adtunc & ibidem accrevit  
 hoc fuit de insult ipsius Sare ppr' & in  
 defensioī ipsius Anne & hoc iidem C. &  
 Anna parat' sunt verificare unde per  
 Judicium si pō A. & Sara accioī suam pō  
 inde versus eos habere seu manutinere de  
 beant, sc.

Repl. Et pō A. & Sara quoad tō resū trans  
 gress & insult p ipsam Annam in Narratio  
 ne pō supius fieri suppōit' dicē quod ipsi  
 p aliqua p eosdem C. & Annam supius in ea  
 Parte placitā pallegat' ab actione sua pō  
 inde versus eos habend pcludi non debent  
 quia dicunt quod pō Anna de injuria sua  
 ppria & absqz tali causa p ipsos C. & Annam  
 supius in ea Parte plitā allegat' in ipsam  
 Saram

Saram insulte fecit & ipsam Saram verberauit vulneravit & maletractavit modo & forma put pō A. & Sara supius versus eosdem C. & Annam queruntur Et hoc pēt quod inquiratur p Patriam Et pō C. & Anna filia sc. Ideo quoad tam (sc.) vēl inde jux (ut in al.)

*Non damnificatus pleaded to a Counter-Bond.*

Et modo (sc.) Defend vini & injuriam quando, sc. Et pēt auditum script oblige pōdict' Et ei legitur, sc. pēt etiam audit Condition ejusdem script Et ei legitur in hec verba (The Condition, sc.) Quibus lectis & auditis idem C. dic quod pōdict' A. nunquam fuit damnificat' occasione pō script oblige Et hoc (sc.) unde (sc.)

Aliter. Quibus lectis & auditis idem C. dic quod ipse idem C. tempore confectionis script oblige pōdict hucusque salvavisset & indempn conservasset & indempnificavisset pō A. ab omnibus iurbationibus (Angilce Troubles) seu' inconvenient' dampnis & molestationibus occasione script obligatorii pō (or otherwise against such and such Persons or Things as in the Condition expressed) Et hoc (sc.) unde (sc.)

(Quer) pcludi non debet quia dic quod pō C. sup diem (sc.) supius mentionat non solvit (sc.)

Or otherwise shews how he was damnified, or that the First Obligee ministrare & conabatur arrestare ipsum (Quer) p denariis p quod (Quer) illos ei solvit Et sic dampnificat (sc.) [as the Case requires.]

*Ne unques Receptor.*

Et modo (sc.) vim & injur quando, sc. & dicit quod ipse nunquam fuit Receptor denar A. B. p manus pō C. D. ad computand ins de eidem A. B. cum inde requisit fuisset redend in forma qua idem A. B. lupius glus eum narravit Et de hoc post se iug Patriam Et pō A. B. silic' Ideo (sc.)

*Ne unques Executor.*

Et modo (sc.) Action non) quia die quod ipse idem C. nunquam fuit Execut Testamenti pdic' J. S. nup defuncta' nec aliqua Bona sive Catalla ipsius J. ut Executor Testamenti ejusdem unquam administravit Et hoc (sc.) unde (sc.)

Repl. (Precludi non) quia die qd' pō C. divers' Bona & Catalla que fuer dict' J. S. tempore mortis sue post mortem ipsius J. ut Executor Testamenti ejusdem J. videlicet apud R. in Com pedit' administravit Et hec pet quod inquirat p Patriam Et pō C. similic sc. Ideo ven (sc.)

*Ne unques Administrator.*

(Action non) quia die quod Administratio Bon' & Catallozum pō que facit pō J. tempore mortis sue eidem C. p prefat Archiepiscopum Cant' nunquam comissa fuit Et hoc (sc.) unde (sc.)

Repl.

*Repl' ad ne unques Administrator.*

(Precludi non) quia die quod Administratio omnium & singulorum Bonorum & Catalorum que fuerit dicta J. S. tempore mortis sue per predicam Archiepiscopi Cantabrigiensis apud L. placitum C. Comissa fuit propter ipse per Matrem suam predicatam supius supponit Et hoc petet, &c.

*Riens per Discant pleaded by an Heir.*

Et modo, (et c.) defendit vim & insur quando, &c. die quod ipse de debito predicit ut filius & heres predicit J. S. Genus Patris sui onerari non debet quia protestando quod scriptum predicatur non est factum predicatur J. per placito dicit quod ipse non habet aliqua terras seu tenementa per discensum heredis de predicatur J. S. predicatur Patre suo in feodo simplici nec habuit die exhibitionis Willm predicit nec unquam postea. Et hoc paratus est verificare unde per Iudicium si de deo patitur filius & heres predicatur J. S. Patris sui virtute scripti predicit onerari debeat, &c.

Repl. Queritur (precludi non) quia die quod die exhibitionis Willm ipsius A. predicit scilicet (tali die & anno) predicit C. habuit terras & tenementa sufficiens per descensum hereditatis de predicatur J. Patre suo in feodo simplici unde eidem A. satissecisse potuit videlicet apud R. in Comitatu L. Et hoc petet quod inquiratur per Patriam. Et predicit C. similiter ideo venit inde

K.'s Bench. *Jur' coram Domino Rege apud Westmonast'*  
*die . . . . pp' post . . . . Et qui nec,*  
*sc. ad recognit, sc. quia tam, sc. idem dies*  
*dicit' est partibus p'dicta' ilidem, sc.*

Several Mat- It is enacted by the Stat. of 4 & 5 Anne,  
ters may be cap. 16. That any Defendant or Tenant in any  
pleaded. Action or Suit; or any Plaintiff in Replevin, in  
any Court of Record, may, with Leave of the  
same Court, plead as many several Matters  
thereto, as he shall think necessary for his De-  
fence.

Costs for In- Provided nevertheless, That if any such  
sufficiency Matter shall on a Demurrer joined, be judg-  
on a Demur- ed insufficient; Costs shall be given at the Dis-  
rer. cretion of the Court; or if a Verdict be found  
upon any Issue in the said Cause, for the Plain-  
tiff or Demandant; Costs shall also be given  
in like Manner, unless the Judge, who tried  
the said Issue, shall certify, that the said De-  
fendant, or Tenants, or Plaintiff in Replevin  
had a probable Cause to plead such Matter,  
which upon the Issue shall be found against  
him.

Replication The Replication is the Plaintiff's An-  
answer to the Defendant's Plea, and great  
Care must be taken, lest the Replication  
must not differ or vary from the Count, and that it  
differ from the also maintain the Cause of the Plaintiff's  
Count. Action; for if it appear by the Replicati-  
on, that the Plaintiff had no Cause of  
Action, there he shall not have Judgment,  
although the Defendant's Plea or Bar be  
insufficient in Matter.

And

And if it differs or varies from the K.'s Bench-Count, and makes not good the same, it        is called a Departure in pleading, which is not sufferable.

Also when the Replication doth neither confess and avoid, nor traverse the Matter of the Bar, it is naught, and the Defendant may demur to it, and shew this for Cause.

The next which follows the Replica Rejoinder, is a Rejoinder, and is where the Defendant makes Answer to the Plaintiff's Replication, and it ought to be a sufficient Answer, and must enforce the Plea or Bar.

And the next follows a Surrejoinder, or Surrejoinder. a Second Defence of the Plaintiff's Action, opposite to the Defendant's Rejoinder.

And every one of these must be a sufficient Answer to the Matter objected by the adverse Party, and follow and enforce the Matter offered by him, that did plead before.

And as the Replication must not differ from the Count, so neither must the Rejoinder from the Bar.

Sometimes (tho' very rarely) the Parties Rebutter go so far in Pleading, that it comes to a <sup>and Surre-  
Rebutter and Surrebuter,</sup> before any Issue butter. or Demurrer; and thereto a Demurrer and Joinder in Demurrer.

Note, Where the Defendant pleads a sham Plea in Bar and afterwards demurs to the Plaintiff's Replication: If there are any material Mistakes in the Decla-

K.'s Bench. ration, the Plaintiff will fail in his Action,  
the Fault appearing first on his Side.

It is the same, where the Plaintiff demurs to a bad Plea of the Defendant, for though the Plea is ill, yet if the Declaration be faulty, the Plaintiff must likewise fail in his Action.

Where the Declaration is good, and there is a Fault in the Defendant's Plea, though the Plaintiff has joined Issue upon it, which is found against him, yet the Plaintiff shall have Judgment upon his good Declaration.

*Cro. Car. 25.*

After a Trial and Verdict, the Postea must be continued on the Roll after this Manner.

### In Case.

*Postea continua-*

*Postea continua* inde Proces<sup>s</sup> inter partes p*dict* de placito p*dia'* p*Jur* pos*it* inde inter eas in respectum coram Domino Rege apud Westm usque diem Mercurii p*r' post* tres septimanas Hanc Michis excunc pror*sequend* nisi Justie dicit Domini Regis ad Alias in Com*p*dia'* capiens Ali*g*n*** prius die Lune quinto die Augusti apud Civit Wellen in Com*p*dia'* p*forma* Statut*v*e*n*d*** p*delectu* *Jur*, &c. Ad quem diem coram Domino Rege apud Westm *v*e*n*d** p*dia'* A. p*Antor*v*e*n*d*** suum p*dict* Et p*fat* Justie Domini Regis ad Alias coram quo, &c. mis*f* hic Recordum suum coram eo hit in hec

hec verba, scilicet Postea die & loco infra con- K.'s Bench-  
tent, &c. [as on the Postea to the End]   
Ideo consideratum est quod pdic' A. recuperet The Judg-  
versus pfaſt C. dampna sua pdic' ad 100 l. pment in Case  
Iur pdic' in forma pdic' assels nec non 5 l. against De-  
eidem A. ad requisitioſuam p mis & custag fendant.  
luis pdic' p Cur hic de incremento adjudicat  
que quidem dampna in toto se atting ad  
105 l. Et pdic' C. in miꝝ, &c.

## Judgment in Debt against Defendant.

Ideo cons' est quod pd A. recuperet versus  
pfaſt C. debitum suum pdic' ac dampna pdic'  
p Cur pdic' in forma pdic' assels nec non  
4 l. p mis & custag suis pdic' eidem A. per  
Cur dia' Domini Regis nunc hic ex assensu  
suo de incremento adjudic que quidem dampna  
in toto atting ad 50 l. Et pd C. capiatr, &c.

If Satisfaction be hereupon acknowledged,  
you enter thus.

Postea scilicet die . . . . . pr' post  
Anno Regni Domini Georgii  
nunc Regis Magnae Britannie, &c. eozam  
Domino Rege apud Westm ven pd A. per  
J. S. Attozid suum p Cur dict Domini Re-  
gis nunc hic specialit constitut & cogid se  
elle satisfact p pdic' C. de debo & dampnis  
pdic' Ideo idem C. de debo & dampn pdic'  
sc inde quiet, &c.

If Judgment be against the Plaintiff,  
then thus:

Judgment against the Plaintiff.

Ideo const<sup>x</sup> est quod pdic<sup>t</sup> H. nil capiat p  
Willam suam & Ius pfa<sup>t</sup> C. sed quod ipse &  
pleg<sup>r</sup> sui de pro<sup>s</sup> scilicet J. Doe & R. Roe  
sunt in mia<sup>d</sup>, &c. Et pfa<sup>t</sup> C. eat inde sine  
die, &c. Et ulterius const<sup>x</sup> est quod pdic<sup>t</sup> C.  
recupet versus pfa<sup>t</sup> A. 6 l. 10 s. p mis &  
cuffag<sup>r</sup> suis p ipsum circa defension<sup>m</sup> suam in  
hac parte sustent eidem C. p Cur dicti Do-  
mini Regis nunc hic ex assensu suo supra  
formam Statuti in hujusmodi casu nuper  
edit & pbis<sup>r</sup> adjudicat Et pdic<sup>t</sup> C. habeat  
inde executionem, &c.

See before amongst the Posteas.

*Note*, That on Paper-Books and De-  
murrers the Plaintiff must deliver the  
Book with a Rule on the Side, that the  
Defendant's Attorney must return it at the  
Day, or else Judgment; that after returned,  
it must be engrossed on a Roll carried  
into Court, and Counsel move to make it  
a Record; then the Rule drawn up and  
Cause set down for a Concilium, then Books  
made for the Judges 2 s. to each of their  
Clerks, then to be argued by Counsel,  
&c. See after Issues and Demurrers, and  
amongst the Special Notes, Tit. Demurrers.

Of

## Of Demurrers.

## A General Demurrer to a Declaration.

**E**T modo ad hunc diem scilicet diem **P**er-  
**c**urii **p**x' post tres **S**eptimanas **S**ancti  
**M**ichaelis isto eodem **T**ermino usque quem  
**d**iem **p**dict **C**. **h**abuit licenc<sup>e</sup> ad **b**illa<sup>d</sup> **p**dict  
**i**nterloquend<sup>s</sup> & tunc ad respond<sup>s</sup>, **sc**. **c**oram  
**D**omino **R**ege apud **W**estm<sup>d</sup> **v**eniam **p**dict<sup>r</sup>  
**A**. p **A**ctori<sup>m</sup> suum **p**dict<sup>r</sup> quam **p**dict<sup>r</sup> **C**. p  
**J**. **S**. **A**ctori<sup>m</sup> suum **E**t idem **C**. **d**efend<sup>b</sup>  
**v**im & **i**njur<sup>s</sup> quando, **sc**. **E**t pet<sup>r</sup> **J**udic<sup>e</sup> de  
**N**ar **p**d quia **d**ie quod **N**ar **p**dict<sup>r</sup> materiaq<sup>s</sup>  
**i**n eadem content<sup>m</sup> minus sufficien<sup>t</sup> in **l**ege  
**e**xistunt ad actionem ipsius **A**. **v**ersus ipsi<sup>m</sup>  
**C**. **h**abend<sup>s</sup> manutenend<sup>s</sup> ad quād id **C**.  
**n**ecesse non **h**abet nec p legem terre tes-  
**n**et aliquo modo respondere **E**t hoc parat est  
**v**erificare **U**nde p defecū sufficien<sup>t</sup> **N**ar in  
**h**ac parte idem **C**. pet **J**udicium de **N**ar il<sup>e</sup>  
**E**t quod **N**ar il<sup>e</sup> casletur, **sc**.

## The Plaintiff joins in Demurrer.

**E**t predict<sup>r</sup> **A**. dicit quod p aliqua **B**allegat  
**N**ar ipsius **A**. **p**dict<sup>r</sup> cassari mi<sup>t</sup> debet quia  
**d**icit quod **N**ar **p**dict<sup>r</sup> materiaque in eadem  
**co**ntent<sup>m</sup> bon<sup>s</sup> & sufficien<sup>t</sup> in **l**ege existunt ad  
**p** actioni<sup>m</sup> ipsius **A**. **v**ersus ipsi<sup>m</sup> **C**. manute-  
nens

K's Bench, nend quam quidem Par materiamque in eas  
 content idem A. parat est verificare ac probare  
 per Cur, &c. Et quia pdic' C. ad Par ille  
 non respondet nec illi hucusque aliquatenus dedit  
 idem A. pet Judicium & dampna sua occione  
 pmiss. sibi adjudicari, &c.

## Or thus in Debt.

\* ————— petit judicium & debitum suum  
 pdic' unacum dampnis suis occione detencom  
 debi illi sibi adjudicari.

## In Trespass.

———— pet Judicium & dampna sua occione  
 Transgred' pdic' sibi adjudicari.

## In Assault.

———— pet judicium & dampna sua occione  
 Transgress' & insult pdic' sibi ad-  
 judicari.

## Demurrer to a Plea in Bar by the Plaintiff.

Et pdic' A. dic quod ipse per aliqua per pdic' C.  
 modo & forma pdic' superius pritando alle-  
 gat ab actione sua pdic' inde versus ipsum C.  
 habens

habens pcludi non debet quia dic<sup>e</sup> quod plicit K.<sup>3</sup> Bench-  
pdict materiaque in eodem content minus  
sufficien<sup>t</sup> in lege existunt ad ipsum A. ab ac-  
cione sua pdict inde versus ipsum C. habend<sup>t</sup>  
pcludend<sup>t</sup> ad quod quidem plicitum idem A.  
necesse non habet nec p legem terre tenetuc  
aliquo modo respondere Et hoc parat<sup>r</sup> est ve-  
rificare unde p defectu sufficien<sup>t</sup> plicit in hac  
parte idem A. pet<sup>r</sup> judicium & dampna sua oc-  
cione pmiss. sibi adjudicari, &c.

**In Trespass.**

— petit judicium & dampna sua occone  
**Transgress** pdict<sup>r</sup> sibi adjudicari.

— occone **Insgr** & insult p<sup>b</sup>, &c.

**In Debt.**

— petit judicium & debitum suum pdict<sup>r</sup>  
unacum dampnis suis occone detencion<sup>r</sup> debi-  
sit sibi adjudicari, &c.

**In Covenant.**

— occone fracciōn<sup>r</sup> **Convene** p<sup>b</sup>, &c.

**Defendant**

## Defendant joins in Demurrer.

Et pdic<sup>t</sup> C. dicit quod placitum pdic<sup>t</sup> p ipsum C. modo & forma pdic<sup>t</sup> supius placitat materiaque in eodem content bonū & sufficiēti in lege existunt ad ipsum A. ab actione sua pdic<sup>t</sup> inde versus ipsum C. habend pcludend' quod quidem placitum materiamque in eodem content ipse idem C. parat est verificare & pbare p ut Cur, sc. Et quia pdic<sup>t</sup> A. ad placitum illū non respondet nec illū hucusque aliquantum dedic idem C. ut prius p Judicium Et quod pdic<sup>t</sup> A. ab actione sua pdic<sup>t</sup> inde versus ipsum C. habend pcludatur, (sc.)

## Demurrer by the Defendant to the Plaintiff's Replication.

Et pdic<sup>t</sup> D. dicit quod placitum pdic<sup>t</sup> per ipsum G. modo & forma pdic<sup>t</sup> supius repliscand placitat materiaque in eodem content minus sufficiēti in lege existunt ad ipsum G. ad actionem suam pdic<sup>t</sup> inde versus ipsum D. habend manutenend ad quod idem D. necessitate non habet nec p legem terre tenetur aliquo modo respondere Et hoc parat est verificare unde p defectu sufficiēti Replication in hac parte idem D. ut prius p Judicium Et quod pdic<sup>t</sup> G. ab actione sua pō inde versus ipsum D. habend pcludatur, sc.

Plaintiff

Plaintiff rejoins.

Et pdic' G. dicit quod placitum pdic' per ipsum G. modo & forma pdic' sapius repli-  
cando plitat materiaque in eodem content  
boni & sufficien in lege existunt ad ipsum G.  
ad actionem ipsius G. pdic' inde versus ipsius  
D. henc manutenend qd quis placitum mate-  
riamque in eodem content idem G. patet est  
verificare & pbare p ut Cur, &c. Et quia  
pd' D. ad placitum ill non respond nec  
ill hucusque aliquatid dedit idem G. ut prius  
pet judic' & debitum suum pdic' unacum  
dampnis suis occasio detencon debiti ill  
sibi adjudicari, &c.

### Demurrer to a Rejoinder by the Plaintiff.

Et pdic' J. B. dic quod placitum pdic' per  
pdic' R. F. modo & forma pdic' sapius re-  
sungendo plitat' materiaqz in eodem content  
minus sufficien in lege existunt, (&c.) [as it  
is in the Demurrer to the Defendant's  
Plea, changing the Word Placitum for  
Resungatio, and concludes like it.]

Also the Defendant's Joinder to this is  
as his Joinder to a Demurrer upon his  
Plea, changing placitando to Resungendo,  
and concludes like it.

And

K.'s Bench; And if the Demurrer be by the Defendant to the Plaintiff's Surrejoinder, it is like his Demurrer to the Plaintiff's Replication, using the Word **Surrexungendo** instead of **Replacando**, &c.

See the Third Part of *Instructor Clericalis*. Tit. *Demurrer*; and see also the *Doctrine of Demurres*.

And you are to observe, That when you enter a Demurrer upon the Roll, you enter it as other Rolls, to the End of Joinder in Demurrer: And then immediately follows the Continuance.

Demurrer  
continued.

**Sed quia Cur' dict' Domini Regis nunc hic de judicio suo de & sup pmissis reddend nondum advisatur dies inde dat est partibus pdic' coram Domino Rege apud Westm usque diem . . . . pr' post . . . . de iudicio suo de & sup pmissis audiend eo quod Cur' Domini Regis nunc hic inde nondum, &c.**

And if it be continued to a further Day, you add:

Further Con-  
tinuance.

**Ad quem diem coram Domino Rege apud Westm venit partes pdic' p' Attorn' suos pd' Et quia Cur' dic' Domini Regis hic de iudicio suo de & sup pmissis reddend nondum advisatur dies inde ulterius dat est partibus pd' coram Domino Rege, &c. (as before.)**

And

And if the Judgment be then given,  
you say;

Ad quem diem coram Domino Rege apud Judgment  
Westm<sup>n</sup> vñ partes pdict p Autorit<sup>n</sup> suos p<sup>d</sup> for the Plaintiff on  
sup quo visis & p Cur<sup>r</sup> Domini Regis nunc Demurrer to  
hic diligent inspectis (or, nunc hic plenius his Declara-  
intellectis) omnibus & singulis pmissis matu-  
ragz deliberatione inde habita \* p eo quod vi-  
detur Cur<sup>r</sup> Domini Regis nunc hic quod  
Narr<sup>r</sup> p<sup>d</sup> ipsius A. materiaque in eadem con-  
tent bon<sup>r</sup> & sufficien<sup>r</sup> in lege existunt ad p<sup>d</sup>  
accord<sup>r</sup> ipsius A. versus ipsum C. habend<sup>r</sup> ma-  
nutenend<sup>r</sup> Ideo cons<sup>r</sup> est quod pdict A. recu-  
pet versus pfa<sup>r</sup> C. debum suum pdict nec  
non & l. p dampnis suis que sustinuit tam  
occone detenc<sup>r</sup> de bi ill<sup>r</sup> quam p mis<sup>r</sup> &  
cussag<sup>r</sup> suis p ipsum circa lectam suam in hac  
parte appoic<sup>r</sup> eidem A. p Cur<sup>r</sup> die Dom<sup>r</sup> Re-  
gis nunc hic ex assensu suo adjudicat Et pdict C. in M<sup>r</sup>ia, &c.

The Entry is much the like, if it be  
for the Plaintiff, upon his Replication or  
Sur-rejoinder in Debt, only changing the  
Word Narr<sup>r</sup> to Replie, &c.

\* And if it be given against the Defen-  
dant, upon the Plaintiff's Demurrer to his  
Plea in Debt, 'tis much the like as p eo  
quod videtur; Or, Quia videtur Cur<sup>r</sup> Dom<sup>r</sup>  
Regis nunc hic quod placitum pdict p pdict  
T. modo & forma pdict supius pliit malia-  
que

K.'s Bench que in eodem content minus sufficien<sup>t</sup> in lege existunt ad pdict A. ab accōd sua pd' inde versus pfat C. habend pcludend Ideo cons<sup>t</sup>, (sc.)

The like upon his insufficient Rejoinder.

But where Judgment is thus given on the Behalf of the Plaintiff in Case, where a Writ of Inquiry of Damages is awarded; Then after the Words habend manutenend, or habend pcludend, you say,

Writ of Inquiry.

Cong<sup>f</sup> est quod pdict A. dampna sua flosus pfat C. occōne pmis recuperare debeat sed quia Cur<sup>r</sup> dic Domini Regis nunc hic incognit exsistit que dampna, (sc.) And so award a Writ of Inquiry, as it is before in Case, with the Entry of the Sheriff's Inquisition and Judgment thereon, as is before observed in the Entry of Judgment upon a Writ of Inquiry.

If the Judgment upon Demurrer go for the Defendant against the Plaintiff, upon the Mar, the Entry is as before, usq;

Judic' versus  
Quer'.

Pro eo quod videtur (or quia vide-  
tur) Cur<sup>r</sup> Domini Regis nunc hic qd Narr<sup>r</sup>  
pdict<sup>r</sup> materiaq<sup>r</sup> in eadem content minus suf-  
ficien<sup>t</sup> in lege existunt ad actionem pdict A.  
flosus pfat C. habend manutenend Ideo cons<sup>t</sup>  
est quod pdict A. nihil capiat p Willam sua  
pdict<sup>r</sup> sed p falso clamore suo inde sit in pia  
Et pdict C. eat inde sine die, sc.

Aliter

## Aliter upon Plea.

— Pro eo quod videtur Cur' dict' Domini Regis nunc hic quod placitum pdicit p ipsum C. modo & forma pdicet superius placitum materiaq; in eodem content boni & sufficien<sup>t</sup> in lege existunt ad pdicat' A. ab accōnd sua pd versus ipsum C. habend pcludens Ideo cons<sup>t</sup> est quod pdicet A. nil capiat p Will suam pd sed p falso clamore suo inde sit in mis<sup>t</sup> Et pdicat' C. eat inde sine die, &c.

## Aliter.

Ideo cons<sup>t</sup> est quod pdicet A. nil capiat p Will suā Et quod ipse & pleg' sui de pro<sup>s</sup> scit J. Doe & R. Roe sint in mis<sup>t</sup> p falso clamore suo Et pdicet C. eat inde sine die, &c.

If you shew Causes of Demurrer, then you may say as before to Respondere; and then add,

— Et p Causis morationis in lege sup Narr pdicet idem C. secundum formam Statuti in hujusmodi casu nup edit & pvis ostendit & Cur hic demonstrat has causas subsequen<sup>t</sup> (vide It.)

\* Quod non appetet p Narr pdicet quod \* Such Cau-  
est aliquid memorand aut pmis<sup>t</sup> (in Narr ses as the  
pdic' specificat) in script signat p ipsum A. Case re-  
aut quires.

K.'s Bench. aut aliquam a<sup>r</sup> plon p ipsum A. legalit ati-  
 chorizat p ut debuit secundum formam Sta-  
 tut in hujusmodi casu nup edit & pvis & qd'  
 Vide 7 Inst. Cler. Mart p dicit est incert insufficien & caret  
 forma, &c.

Or you may put the Causes at last af-  
 ter the Words pcludatur, &c.

Note, You may amend your Declara-  
 tion before Joinder in Demurrer, up-  
 on Payment of Costs.

*Stat. 4 & 5  
 Annae, cap.  
 on Demur-  
 rer joined,  
 Judges to  
 proceed  
 without re-  
 garding any  
 Defect, &c.  
 except such  
 as be special-  
 ly set down,  
 as Causes of  
 Demurrer.*

By the Statute for Amendment of the Law, It is enacted, That where any Demurrer shall be joined and entred in any Action or any Suit, in any Court of Record; the Judges shall proceed and give Judgment according as the very Right of the Cause, and Matter in Law, shall appear unto them; without regarding any Imperfection, Omission or Defect, in any Writ, Return, Plaintiff, Declaration or other Pleading Process, or Course of Proceeding whatsoever; except those only, which the Party demurring shall specially and particularly set down, and express together with his Demurrer, as Causes of the same; notwithstanding that such Imperfection, Omission or Defect might heretofore been taken, to be Matter of Substance, and not aided by the Statute 27 El. (cap. 5.) Entitled an Act for the Furtherance of Justice in Case of Demurrer and Pleadings: So as sufficient Matter appear in the said Pleadings, upon which the Court may give

give Judgment according to the very Right of K.'s Bench: the Cause; and therefore no Advantage or Exception shall be taken, of or for an immaterial Traverse, or of or for the Default of entring Pledges upon any Bill or Declaration; or of or for the Default of alledging the Bringing into Court any Bond, Bill, Indenture, or other Deed whatsoever mentioned in the Declaration or other Pleading; or of or for the alledging the Bringing into Court Letters Testamentary, or Letters of Administration; or of or for the Omission of Vi & Armis & contra pacem, or either of them; or of or for the want of Averment of hoc paratus est verificare, or hoc paratus est verificare per Recordum; or of or for not alledging prout patet per Recordum, but the Court shall give Judgment according to the very Right of the Cause as aforesaid, without regarding any such Imperfections, Omissions and Defects, or any other Matter of the like Nature, except the same shall be specially and particularly set down, and shewn for Cause of Demurrer.

And note, That though the Want of Form is not sufficient upon a general Demurrer; yet it being made a Cause of Demurrer, may prevail: For the Judge is to have no Regard to Want of Form, but only to such Causes as the Party demurring shall set down.

And if there be Want of Substance, a general Demurrer will suffice without shewing Causes: *Sed quere.*

## Of Issues and Demurrers.

**W**HEN there are two or more Issues upon a Pleading, then after the Tender of the last Issue, *Et de hoc pon se super Pr'iam & pdic' A. silit'*, &c. you add, *Et quoad trian'd tam exit' ist' quam pdic' a'k exit' int' partes pdic' supius silit' junct' vnu inde Iur' cozam Dno Rege apud Westm die . . . . . p' post : . . . . . Et qui nec, &c. ad recognit', &c. quia tam, &c. idem dies dat' est partibus pdic' ibm, (&c.)*

Where there is a Demurrer to one Part of the Declaration, and an Issue to the other Parts, the Trial may either be before or after the Arguing of the Demurrer, at the Election of the Plaintiff.

But if Judgment be given for the Plaintiff on the Demurrer; he may enter a *Non pros'* as to the Issue; and proceed to a Writ of Enquiry, on the Demurrer; but without a *Non pros'* he cannot have a Writ of Enquiry, because on the Trial of the Issue, the same Jury will ascertain the Damages for that Part to which the Demurrer was.

And the Jury must, if they find the Issue for the Plaintiff, give Damages upon the Issue, and Damages upon the Enquiry, severally; but if they find the Issue for the Defendant, then they must assess Damages upon the Inquiry; and if the Court gives Judgment for the Plaintiff

tiff upon the Demurrer, he shall have K.'s Bench.  
his Costs and Damages.

But if the Issue be tried first, then the  
*Distringas Jur'* must be tam ad triandum  
exit' int' partes junct' quam ad inquiren-  
dum de dampnis si judicium reddit' fuerit  
p' quer' (sc.)

## Demurrer and Issue.

*Et quoad tam triand exit' ist' unde partes  
pdic' posuer' se in Jur' am patrie quam ad  
inquirend' que dampna pdic' A. sustinuit occ-  
tione pmis' Unde partes pdic' posuer' se  
in Judicium Cur si contingat Judic p' pdic'  
A. vers' p'sat C. inde reddi vid' inde Jur'  
coram, (sc.) ut in al' usque ibm, (sc.)*

*Postea continuat' pcess' (sc. ut in al' to  
the End of the Verdict) 200 l. dampnis Et  
pro mis' & custag' ill' ad 40 s. Then add,  
Et quoad inquirend' que dampna pdic' A.  
sustinuit occione pmis' infrascript' Unde  
partes pdic' in Judic Cur se posuer' si con-  
tingat judic p' pdic' A. vers' pdic' C. inde  
reddi tunc iidem jur' die sup Sacram suum  
quod pdic' A. sustin' dampna occione inde  
ad 100 l. Ideo cons' est quod pdic' A. recus-  
pet versus p'sat C. dampna pdic' p' Jur'  
pdic' in form' pdic' assess' necnon 11 l. 6 s.  
8 d. p' mis' & custag' pdic' eidem A. per  
Cur' die Dni Regis nunc hic ex assensu suo  
de iure adjudicat' Que quidem dampna in  
toto se attingunt' ad 313 l. 6 s. 8 d. Et p'  
dic' C. in mia, (sc.)*

## Demurrers.

## Issue and Demurrer.

Non Cul' quoad Vulneration; and justifies as Church-warden to the rest of the Assault.

Plaintiff demurrs to the Justification.  
Defendant joins in Demurrer.

Vic inde nondum, &c. Et quoad trians erit' (sc.) Quam ad inquirens que dampna (sc.) ibidem, (sc.) Ad quem diem, (sc.) Et quia Cur', (sc.) nondum advisatur dies inde ulterius, (sc.) Ad quem diem, &c. Et sup' hoc vissis, (sc.) that the Plea was sufficient Ideo cons' est quod pdict' A. nil capiat p' Willam. Et quod ipse & pleg' sui de pros' scilicet J. Doe & R. Roe sint inde in mia p' falso clamore suo Et pdict' C. eat inde sine die, &c.

*Respondeas  
Ouster and  
Plea.*

After a Demurrer to a Plea in Abatement, the Judgment on a *Respondeas Ouster*: Some ignorantly enter up the second Plea, taking no Notice of the Demurrer, or the Judgment thereon; which is a Mistrial, and void. The *Respondeas Ouster*, and the Plea, ought to be entred upon the Demurrer-Roll, and the Record for Trial is to be taken off the Roll.

The Form is thus:

After the Demurrer is continued to the Day of the Judgment given, then say,

Ad quem diem venit tam pdici' Quer p' Accorid suum pdici' quam pdici' Det' in \* ppr'

\* prop' pson' sua & super hoc lecto & au- K.'s Bench-  
 dito plito pdict' per pdict' Def. superius pli- ~~~~~  
 cat' videtur Cur' dic' Dñi Regis hic quod  
 Idem plitum insufficiens est ad Cur' Dñi  
 Regis nunc hic ad cassand Willam pdict' Et  
 quod pdict' Def. ad Willam pres Quer' re-  
 spondeat, sc. super hoc Idem Def. p A. B.  
 Attorw suum dic' quod ipse Non assumpsit  
 sup se modo & forma put pres Quer supi-  
 us Elus eum narravit Et de hoc ponit se  
 super Patriam Et pres quer' filii, sc. I-  
 deo vniu' inde Jur' cooram Dao Hege (ut  
 in ap.)

\* If the Plea be pleaded in propria per-  
 sona ; but if by an Attorney, then name the  
 Attorney, and afterwards leave out the  
 Attorney's Name, and say only p Attorw  
 suum pres dic', sc.

In order to make up the Paper-Book  
 on a Demurrer, you deliver a Copy of  
 the Declaration to the Clerk of the Pa-  
 pers, who makes up the Paper-Book, and  
 gives a four Days Rule in the Margin  
 thereof, for the Defendant to rejoin ; o-  
 therwise Judgment. If the Defendant re-  
 turns the Book in time, and pays you  
 8 d. per Sheet for his Pleadings, you en-  
 ter your Proceedings with Mr. Lantrow;  
 move for a Concilium, draw up and serve  
 the Rule, enter your Cause with the  
 Clerk of the Papers, deliver your Paper-  
 Books to the Judges, and argue the De-  
 murrer; and if Judgment goes for the  
 Plaintiff, draw up your Rule for Judg-

U 3 ment,

K.'s Bench.ment, serve the same, and give Notice of Executing a Writ of Enquiry——but if it is in Debt you give no Notice of executing a Writ of Enquiry, but take out your Execution.

If there is an Issue as to Part, and Demurrer as to the other Part, you give Notice of Trial, and proceed to try your Cause, and argue your Demurrer (too if needful) in manner as is before directed.

But if the Plaintiff refuses to join in Demurrer, you may have a Rule from the Master of the Office, which is entered with the Clerk of the Rules; and if he does not join in Demurrer before the Rule is out, you may sign a *Non pros*.

*Note*, On Delivery of the Paper-Book of Demurrer to the Defendant's Attorney, you cannot give Notice of executing a Writ of Enquiry, but you must stay till after you have obtained Judgment.

*Note also*, The Defendant's Attorney may, at the Expiration of the Time for returning the Paper-Book, wave his Demurrer, and give the General Issue; and Notice of Trial must be given, but from the Time of pleading the General Issue.

## Of Writs of Error.

The Manner of Entring a Writ of Error of Record out of the Common Pleas, returnable in the King's Bench.

**D**ominus Rex mand<sup>t</sup> dilect<sup>r</sup> & fidele<sup>r</sup> suo Error in B.  
R. E. Mil<sup>r</sup> Capital<sup>r</sup> Justic<sup>r</sup> suo de Banco C. returna-  
breve suum c<sup>m</sup> in hec verba s. Georgius ble in B.R.  
Dei Gr<sup>r</sup> Magi<sup>r</sup> Brit<sup>r</sup> Franc<sup>r</sup> & Hibernie  
Rex, &c. (and so enter the Writ of Error  
and Return, and the whole Record an-  
nexed to **Mia**, &c.)

## Common Error assigned.

Pestea scilicet die Sabbati p<sup>r</sup> post De-  
rab<sup>r</sup> Sancti Hillarii isto eodem Termino  
coram Dño Rege apud Westm<sup>r</sup> vnde pre-  
dict<sup>r</sup> C. D. p J. G. Attorn<sup>r</sup> suum Et die  
quod in Record<sup>r</sup> & procel<sup>r</sup> p<sup>r</sup> ed acetiam in  
reddic<sup>r</sup> Judic<sup>r</sup> loquel<sup>r</sup> p<sup>r</sup> ed manifeste est  
erratum in hoc videlicet quod per Record<sup>r</sup>  
p<sup>r</sup> apparer quod Judic<sup>r</sup> p<sup>r</sup> in forma p-  
dict<sup>r</sup> reddit<sup>r</sup> fuit p p<sup>r</sup> A. B. versus p<sup>r</sup>  
**C. D.** ubi per legem terre Judic<sup>r</sup> ill<sup>r</sup> reddi  
debuisset pro p<sup>r</sup> C. D. versus prefat A.  
B. Ideo in eo manifeste est erratum Et p<sup>r</sup>  
idem C. D. h<sup>r</sup>e dic<sup>r</sup> Domini Regis ad pre-  
muniend<sup>r</sup> p<sup>r</sup> A. B. essend<sup>r</sup> coram dia<sup>r</sup> Do-  
mino Rege auditur Recordum & Proces<sup>r</sup>  
p<sup>r</sup> Et ei conceditur, &c. per quod p<sup>r</sup> cept<sup>r</sup>  
est Vic<sup>r</sup> p<sup>r</sup> quod p p<sup>r</sup> pos, &c. Scire fac<sup>r</sup>  
prefat A. B. quod sit coram Domino Rege

K.'s Bench. a die Pasche in quindecim dies ubicunque,  
 sc. auditur Record & Proces<sup>s</sup> p<sup>r</sup>ed s<sup>i</sup>, sc.  
 Et ulterius, sc. idem dies dat est prefat'  
 C. D. sc. Ad quem diem coram Domino  
 Rege apud Westm<sup>un</sup> ven<sup>i</sup>p<sup>r</sup>ed C. D. p At-  
 tor<sup>y</sup> suum p<sup>r</sup>ed Et Vic' non mis' inde  
 breve. Et p<sup>r</sup>ed A. B. ad eund<sup>m</sup> diem sole-  
 nit' exact' p W. T. Attor<sup>y</sup> suum sit' ven<sup>i</sup>  
 super quo idem C. ut prius dicit quod in  
 Record & Proces<sup>s</sup> p<sup>r</sup>ed acetiam in reddi-  
 tione Iudicij p<sup>r</sup>ed manifeste est errat alle-  
 gando Error' p<sup>d</sup> p ipsum in forma pdic<sup>t</sup>  
 allegat' & pet' quod judicium pdic<sup>t</sup> ob Er-  
 ror' & al' in Record & Proces<sup>s</sup> p<sup>d</sup> existent  
 revocetur adnullatur & penitus p nullo hea-  
 tur Et quod ipse ad omnia que occone Ius-  
 dicij p<sup>r</sup>ed amisit restituatur Et quod Cur<sup>t</sup>  
 dict' Dñi Regis hic procedat tam ad exami-  
 nation<sup>m</sup> Record & Proces<sup>s</sup> pdic<sup>t</sup> quam ma-  
 ter<sup>r</sup> p<sup>r</sup>ed superius p Error' assig<sup>n</sup> quodq<sup>z</sup>  
 pdic<sup>t</sup> A. B. ad Error' rejung<sup>r</sup>, sc. super  
 quo idem A. B. dic<sup>r</sup> quod nec in Record  
 & Proces<sup>s</sup> p<sup>r</sup>ed nec in redditione Iudicij  
 pdic<sup>t</sup> in ullo est Erratum Et pet' quod Cur<sup>t</sup>  
 Domini Regis hic procedat tam ad exami-  
 nation<sup>m</sup> Record & proces<sup>s</sup> p<sup>r</sup>ed quam mater<sup>r</sup>  
 p<sup>r</sup>ed superius pro Error' Assig<sup>n</sup> Et quod ju-  
 dicij p<sup>r</sup>ed in omnibus affirmetur sed quia  
 Cur<sup>t</sup> dici' Domini Regis nunc hic de ju-  
 dicio suo de & super pmis<sup>x</sup> reddend<sup>m</sup> non-  
 dum advisatur dies inde dat' est partibus p<sup>d</sup>  
 coram Domino Rege apud Westm<sup>un</sup> usque  
 in Crō S<sup>c</sup>ce Trī<sup>m</sup> (Et sic continuat<sup>r</sup> usque  
 Hile) Ad quem diem coram Domino Re-  
 ge apud Westm<sup>un</sup> ven<sup>i</sup> partes pdic<sup>t</sup> per At-  
 tor<sup>y</sup> suos p<sup>d</sup> huy quo visis & p Cur<sup>t</sup> Dñi  
 Regis

Plaintiff re-  
joins.

Continuance

Regis nunc hic plenū intellectis omnibus & singulis premissis diligenterque examinat & inspec' tam Record & Process' pred ac ius dic' super eisdem reddit' quam pō causis & mater' per pred. C. superius pro Error' assignd p eo quod videtur Cur' Domini Regis nunc hic quod nec in Record & process' pred nec in redditione iudicij pred in ullo viciolum aut defectivum existit ac quod Record ill' in nullo fuit erratum Considerat' est quod iudicium pred in omnibus affirmet' ac in omni roboze sit & effectu dictis causis & mater' superius pro Error' assignd in aliquo non obstat. Et ulterius p Cur' Domini Regis nunc hic consideratum est quod pdicit' A. B. recuperet vers' prefat' C. D. 12 lib' eidem A. B. per Cur' Dñi Regis nunc hic secundum formam Stat' in humdi Casu nuper edit' & provis' adiudicat' pro mis' custag' & dampnis suis que sustinuit occone dilatione executione iudicij pred pretertu prosecutione pred bris de Error' Et quod pred A. B. heat inde executione, sc.

Judgment affirmed.

Costs, &c.

Judgment reversed.

Pro eo quod videtur Cur' Dom' Regis nunc hic quod in Record & Process' pred acetia in redditione iudicij pred manifeste est Erratum cons' est quod iudicium pred ob Error' ill' & al' in Record & Process' pred reversetur adnulletur Et penitus pro nullo heatur Et quod pred J. ad omnia q' occone iudicij amict restituatur, &c.

Error

## Error.

Error in E.  
R. returnable  
in the  
Exchequer  
Chamber.

**A** Writ of Error in the King's Bench returnable in the Exchequer Chamber must be allowed by the Clerk of the Errors, and a Copy of such Allowance must be served on the Defendant's Attorney in Error. If the Writ is returnable the first Return in Term, (there being but two Returns in each Term for that Purpose) the Clerk of the Errors will give you a Rule to transcribe in Eight Days, a Copy of which you must serve on the Attorney for the Plaintiff in Error; and he must transcribe the same Term, alledge Diminution the Term following, and assign Errors the Term next after, and the Term after that argue the Errors. But if the Defendant in Error sleeps, and does not give a Rule to transcribe upon the Return of the Writ of Error, and a Term or two, or any Time after, gives a Rule to transcribe, the Plaintiff in Error must transcribe and alledge Diminution the same Term, assign Errors the next, and argue the Term after.

*Error quod coram vob' residet.*

*Error quod coram vob' residet.*

**T**HIS Writ of Error is allowed in Court by the Clerk of the Rules, who draws up a Rule of such Allowance, and

and then the Attorney for the Defendant, serves the Plaintiff's Attorney with ~~the~~ a Copy of the Writ of Error and Rule, whereby it appears to be allowed, upon which the Defendant's Attorney in Error, draws up a Rule in Form following.

A. }  
v. } in Error.  
B. }

Petit Quer in Error' Assignd Error' infra 4 dies post notitiam hujus regle ei vel ejus Attorn' dand' fiat non pros' pro Def' in Error'.

This Rule Mr. Clerke the Secondary signs, and then it must be carried to the Clerk of the Rules, who will draw up a Rule from it upon Stamp, for which you pay 2 s. 4 d. and then serve a Copy on the Attorney for the Plaintiff in Error—and if he assigns any Error, you must either apply to it, or demur, as you see Occasion; and in Case of Demurrer, you make up a Book as you do other Paper-Books, and put the Cause upon Return of the Book in the Paper to be argued. The Errors are to be assigned and entered upon the Record of the Judgments.

Note, Upon this Writ of Error there is no Bail to be given, in respect Errors may

K.'s Bench may be assigned and the Book made up; the same Term. The Error to be assigned must be Facts; for the Judges of the same Court cannot be Judges of any Error upon Record, which is supposed to be their own Entry, and upon Issue taken of Error in Fact, you may proceed to Trial, *per Pais*, as in other Common Cases.

### Error in Parliament.

**I**F you bring a Writ of Error in Parliament, to reverse a Judgment in the King's Bench, you must get the Cursitor to procure a Warrant from the King, for which you are to pay 5*l.* and for Allowance with the Clerk of the Errors you likewise pay 4*l.* and then the Lord Chief Justice carries the Record, and a Transcript thereof, up to the House of Lords, and after they are examined, there he leaves the Transcript with the Lords, but brings the Record back again, then if you are for the Defendant in Error, you must apply to some Lord to move that the Plaintiff in Error may assign his Errors; but if you are for the Plaintiff, get him to move that upon your assigning Errors, the Defendant may appear and usually two make his Defence: After hearing of Coun-  
on each Side sel on both Sides, and the Lords having either affirmed or reversed the Judgment, the Clerk of the Parliament remands the Transcript of the Record into the King's Bench,

Bench, with the Affirmation or Reversal K.'s Bench. thereof, to be entered there upon Record.

In Matters of Weight and Difficulty, the Lords examine the Errors with the Advice and Counsel of the Judges who inform them what the Law is in such Cases; and if Judgment be reversed, then Commandment is given to the Lord Chancellor, to do Execution accordingly; but if the Judgment be affirmed, the Court of King's Bench is to proceed to Execution, &c.

### Placitum ad Scire fac' versus Manuapt'.

Et p̄ed A. B. & C. D. per . . . At-  
tornat' suum veid & petunt judicē de b̄eve de Scirr facē pdict̄ quia dicunt quod post  
redditionem judicij pdict̄ versus pfat (Def.) in forma pdict̄ habit' & ante emanacionē h̄is  
de Scire facē pdict̄ versus pdict̄ A. B. & C.  
D. nullū b̄eve de Capias ad satisfaciē  
de & super Judicio illo p̄ pdict̄ quer' versus  
pdict̄ Def. debito modo prosecut' & reto-  
nat' fuit quod secundum cons̄ Cur illa a  
tempore cuius conterarii memoria hominid  
non existit usitat' & aprobat' in eadem Cur  
fieri debuisset antequam aliquod b̄eve de  
Scire facē versus pdict̄ A. B. & C. D. e-  
manasse debuit & hoc parat' sunt verificare  
unde petunt judicij & quod b̄e de Scire  
facē pdict̄ casletur.

Repli-

## Replication.

Et pdict quer die quod ipse p aliqua  
pallegat ab execucon sua pdict de debito &  
dampnis pdict p A. B. & C. D. in for-  
ma pdict Recognit' ptertu Recognicōn pdi-  
ct habens breve de Scire fac cassari non  
debet quia die quod post reddicōnē judicij  
pdict versus pfat (Def.) in forma pdict  
hit & ante emanacion pdict hris de Scire  
fac versus pfat A. & C. scilicet (the Day  
of the Teste of the Capias) pdict Cur' dia'  
Dñi Regis coram ipso Rege apud Westm  
prosecut' fuit quoddam breve de Capias ad  
satisfaciend versus pdict Def. tunc Vic' Lon-  
don direct' p quod quidem breve dictus  
Dominus Rex eisdem tunc Vic' London  
pcepit quod caperent pdict Def. si invent'  
fuisset in Ballia sua & eum salvo custos  
Ita quod herent corpus ejus coram dicto Do-  
mino Rege die (the Return of the Writ) ad  
satisfaciend pfat quer de Centum libris nec-  
non 10 l. quas pdict quer in Cur' dia'  
Dñi Regis coram ipso Rege apud Westm  
sustinuit tam occone detention debiti illius  
quam p mils & custag suis p ipsum circa  
sectam suam in ea parte appoit' unde pre-  
dict Def. convict' fuit prout constat de re-  
cordo Et quod pdict Vic' London herent  
ibi tunc breve illud pdict quod quidem bre  
de Capias ad satisfaciend de & super judi-  
cio illo pro pdict quer versus pdict Def.  
debo modo prosecut' fuit & ante Recorid es-  
tudem hris pfat Vic' London debito modo  
delibe-

deliberat' fuit sup quo pdic' quer' ad p'sat' K.'s Bench:  
 Recorū ejusdem h̄is vñ in ppria psona  
 sua & tunc Vic' Londonū videlicet (sc.) ad  
 die mil' recorū quod pdic' Def. non fuit in-  
 vent' in Ballia sua put p pdic' b̄z de  
 Ca' Sā & recorū inde in eadem Cur' dict'  
 Dñi Regis corā ipso Rege apud Westm  
 int filiat brevium de Ca' Sā in pdic' Cur  
 dict' Dñi Regis corā ipso Rege apud Westm  
 de Recorū remaneū affilar' plenius liquet &  
 apparet & hoc parat' est verificare unde pō  
 quer' petīt Execuconem de pdic' debo &  
 dampnis pdic' in forma pdic' recognit' pter-  
 tu recognitionis pdic' sibi adjudicar', sc.

### Aliud placitum ad Scire Facias versus Ma- nucaptor'.

Sup quo vñ A. B. & C. D. p . . . . Nul tel Rej  
 Accorū suum & dicunt quod pdic' quer' cord.  
 Execuconem suam versus eos de debo &  
 dampnis pdic' here non debet quia dicunt  
 quod non hetur Ele Recorū Recogniconis  
 pdic' qual pdic' quer' p h̄e sūd supius  
 supponū Et hoc parati sunt h̄ificare unde  
 petunt judic' si pdic' quer' Execuconem su-  
 am versus eos de debito & dampnis pdic'  
 here debeat, sc.

## Replication.

Et pdict' quer' dicit quod ipse p aliqua p  
pdict A. B. & C. D. superius placitando  
allegat' ab Executione sua pdict' versus eos  
de debo & dampnis pdict' habend pcludi  
seu retardari non debet quia dic' quod hanc  
tale Record Recognitionis pd qual ipse p bre-  
ve sudi pdict supius suppon' Et hoc parat' est  
verificare unde pdict quer' petit Execution  
de debo & dampnis pdict in forma pdict  
Recognitionis pdict sibi  
adjudicari, &c.

## Aliter sic.

Et hoc paratus est verificare p Record  
Recognitionis pdict' put patet in Cur' dia'  
Dni Regis coram ipso Rege apud Westm  
pdia' Termi'. Anno, &c. in Corlo 66.  
Et sup hoc pdict quer' pet' quod Record Recognitionis pdict p Cur' hic videatur & ins-  
piciatur, &c.

## Acknowledgment of Restitution.

. . . Postea scilicet die . . . prox' post . . .  
Anno Regni Dni Georgii nunc Reg' Mag'  
Brit', &c. septimo coram eodem Dno Re-  
ge apud Westm vnu p J. p R. G. Actorum  
sum Et cogit se huile restitutioni a pstat  
W. de omnibus denar' sumis qz ipse idem J.  
octone Judicij pdict' amisit Ideo id est W. de  
omnib' talib' denar' sumis sit inde quiet', &c.

*Non Pros'* for not declaring after the  
Cause removed by *Habeas Corpus*.

Londonii ss. C. D. qui arrestat fuit vir-  
tute cuiusdam Querele le-  
vata in Curia Domini Georgii nunc Regis  
tent apud Londonum predict in Guildhall ejus-  
dem Civitatis ————— die ————— Anno Rati-  
onabili Domini Regis decimocertio coram J. S.  
arbitrio Vicie civitatis Londonii predicti versus ip-  
sum C. ad Sectorem A. B. in quodam plito  
transgredi sup casum ad dampnum ipsius A.  
100 l. & ob defectum sufficiens manucaptorum  
& securitatem ad respondendum predictum A. in plito  
predicto detenatus fuit in prisiona Domini Regis  
sub custodia predicti J. S. At tunc arbitrio Vicie ci-  
vitatis predicti pro causa predicta posteaque scilicet —————  
die ————— Anno 13 supra dicto idem C. vir-  
tute cuiusdem brevis dicto Domini Regis de-  
habendo Corpus cum causa Majori & Aldoris  
& Vicie Civitatis Londonii directo & extra Curia  
dicto Domini Regis coram ipso Rege apud  
Westm' in Comitatu Middx emanando per predictum  
J. S. tunc arbitrio Vicie Civitatis predicti postea scilicet  
eodem ————— die ————— Anno 13 supra dicto  
dicto fuit coram E. R. Mil' arbitrio Justicie dicto  
Domini Regis ad plito in Curia ipsius Domini Regis  
coram ipso Rege tenendo assignando a-  
pud Cameram suam situat in le Serjeants  
Inn in Fleetstreet, London, Et adhuc  
Et ibidem per defectum manucaptorum & secu-  
ritatem ad respondendum predictum A. B. in plito  
predicto per eundem Justicie comissarium fuit custos  
Parvum maresce Curia dicto Domini Regis cor-  
am

K.'s Bench. ram ipso Rege ad lectam pdic<sup>t</sup> A. B. in plito pdic<sup>t</sup> pdictoque C. sic in Custos Mar Maresc<sup>e</sup> predict' existent<sup>d</sup> predict<sup>t</sup> A. B. in eadem Cur<sup>t</sup> Dom<sup>r</sup> Regis coram ipso Rege Willam sive nart suam in aliqua accone quacunque infra duos terminos post Commission<sup>d</sup> ipsius C. in Custos mar Maresch pdic<sup>t</sup> ad lectam pdic<sup>t</sup> A. ut perfetur non exhibuit nec est querelam suam pdic<sup>t</sup> vers<sup>r</sup> psfat C. ulterius plect<sup>r</sup> Ideo Cons' est qd pdic<sup>t</sup> A. nil capiat p querelam suam pdic<sup>t</sup> sed quod ipse & pleg sui de pros' scilicet Jo hannes Doe & Ricardus Roe inde sine in glia, sc. Et pdic<sup>t</sup> C. eat inde sine die, sc.

Intratio non pros' super Latitat.

No Rule is given to declare.

London s. A. B. arrestat' fuit virtutebris Domini Regis de Latis tat coram ipso Rege emanad<sup>d</sup> Et Vic<sup>r</sup> London direct<sup>r</sup> retronabile coram dic<sup>r</sup> Dom<sup>r</sup> Re ge de Termino Pasche apud Westm die . . . . . prox' post . . . . . iam ultimo p terito ad respond<sup>r</sup> C. D. de plito Transg<sup>r</sup>

Note, these Judgments upon non pros' must be drawn upon double half CrownStamp and entred with Mr. Lantrow, and

Et idem A. B. ad eundem diem per . . . . Attorid suum secundum formam Statuti in hujusmodi casu uuper edic<sup>r</sup> & probis' com peruit Et psfat<sup>r</sup> C. D. in eadem Cur dia Domini Regis coram ipso Rege apud Westm per

Costs signed by the Master as in other Judgments, by Confession, or non Informat'.

per Willam sive Mar' suam in aliqua ac<sup>s</sup> K's Bench.  
tione personal' sive ejec<sup>tio</sup>n<sup>d</sup> firme versus ip-  
sum A. B. ante finem Termini ~~Sec~~ Terci  
natis ertunc p<sup>r</sup>or' sequent<sup>e</sup> existent<sup>e</sup> p<sup>r</sup>t' ter-  
mino post comparenc ipsius A. B. ad sec-  
tam C. D. non narravit Ideo cons' est quod  
pdic<sup>t</sup> C. D. nil capiat per breve suum p<sup>r</sup>-  
dia' sed quod ut in mia<sup>s</sup> sc. Et ulterius cons'  
est quod pdia' A. B. recuperet versus p<sup>r</sup>  
dia' C. D. 30 s. pro mis' & custagiis suis  
per ipsum circa defensionem suam in hac  
parte sustent eidem A. B. per Cur' dict' Do-  
mini Regis nunc hic juxta formam Status  
in hujusmodi casu nuper edit' & provis  
adjudicat Et quod pdic<sup>t</sup> A. B. heat inde  
versus pdic<sup>t</sup> C. D. Executionem, sc.

### Entry of a Non pros' upon an Action by Latitat, and Judgment thereupon.

Som<sup>s</sup> II. A. B. arrestat suit ad sectam  
C. D. virtute bris Dni Regis de Latit-  
rei' coram Dno Rege apud Westm (ali  
die, as in the Lat. (anno Regni dia' Dni  
Regis nunc duodecimo Et pdia' C. tunc  
& ibidem proculit in Cur Dni Regis hic  
quandam Willam suam vers' pdia' A. in  
custos Mar, sc. de plito, (ac.) quam quis-  
dem Willam idem C. D. versus pdic<sup>t</sup> A.  
postea non est pros' Ideo adjudicantur ei-  
dem A. p mis' & custag' suis p ipm  
in hac parte appdii' 40 s. juxta formam Status  
tutti, sc. (ut postea.)

## Aliter.

¶. A. B. qui tulit Bill suam de plito  
 Tuisgr' Glus C. D. comparend ptertu bris  
 Dni Regis de Latir' ad secam ipsius A.  
 B. in Cur Dni Regis pdic' emanand Wil-  
 lam illam non est pros' Ideo adjudicant ei-  
 dem C. p Cur Dni Regis hic pro mis-  
 & custag' 40 s. iuxta formam Statut', sc.  
 Et ipd & pleg' sui de pros' scilicet Iohes  
 Doe & Ricus Roe in miad, sc. Et pdic' A.  
 eat inde sine die, sc.

*Aliter, for not declaring within three Days*

¶. A. B. arrestat ad sectam R. G. perso-  
 nali per comperuit coram Dno Rege apud  
 Westm die . . . . px' post . . . Et  
 quia pdic' R. non narravit versus pfat A:  
 B. infra tres dies extunc pror' sequend Ideo  
 iuxta formam Statuti adjudicantur ei-  
 dem A. per Cur Dni Regis 12 s. p mis-  
 & custag', (sc.)

*Intratio Non Pros' pro defectu Replica-  
 tionis Quer'. After setting forth the  
 Proceedings, say,*

\* You take

this Rule

from the Ma- Et super hoc pdic' Def. petit quod Quer-  
 ster, and en- ad plicum ipsius Def. replicaret super quo  
 terit with the dies (as in the \* Rule that is given) dat'  
 Clerk of the est per Cur' dict' Dni Regis nunc hic pfat  
 Papers, and Duer' ad replicand ad pdic' plicum pdic'  
 serve it on the Plaintiff's  
 Attorney.

Def. Et dict' est eidem Quer' p Cur' dia' K.'s Bench.  
 Dñi Regis nunc hic quod ip̄e ad eundem  
 diē resp̄ ad quem dient coram Dño Rege  
 apud Westm̄ venit pdic' Def. p Accorū  
 suum pdic' Et pdic' Quer' licet solempni-  
 ter exact' non venit nec ad plitum pdic'  
 Def. replicavit nec est Willam suam pdic'  
 versus eundem Def. ulterius psecut' Jo-  
 cons' est per Cur' hic quod pdic' quer' ni-  
 chil caperet p Willam suam pdic' sed quod  
 ipse & pleg' sui de pros' scile Johannes  
 Doe & Ric' Roe sint in Diā Et pdic' def.  
 eat inde sine die, sc. Et ulterius p Cur'  
 hic cons' est quod pdic' Def. recuperet ver-  
 sus presb Quer' 3 l. p mis' & custagiis sus-  
 is per ip̄m circa defensionem suam pdic'  
 in hac parte sustent eidem Def. per Cur'  
 Dñi Regis nunc hic iuxta formam Statuti  
 in hussimodi casu inde nuper edit' & provis'  
 adjudicat Et idem def. heat executionem  
 (sc.)

## Non Pros' for not Joining in Demurrer.

**E**t sup hoc idem def. petit quod pdic'  
 Quer' in Moraconū cum eodem def.  
 jungat & supinde dies dat est p Cur' dia'  
 Domini Regis nunc hic pfat quer' coram  
 domino Rege apud Westm̄ usque diem \* Jo-  
 vis pr' post Octab Scti Martini extunc  
 pr' lequend ad jungend cum eodem def. in  
 Moratione in Lege presb Et pdic' Quer' ad  
 eundem diem solemniter exact' non venit nec  
 est willam suam pdic' vers' pfat def. ulterius  
 psecut' sed defalat fecit Ideo cons' est

\* As in the  
Rule.

K.'s Bench. quod pdic<sup>t</sup> Quer<sup>r</sup> nil copiat p<sup>r</sup> villam suam  
 pdic<sup>t</sup> sed quod ipse & pleg<sup>r</sup> sui de ps<sup>r</sup> scilicet  
 Johannes Doe & Vic<sup>r</sup> Roe sint in M<sup>r</sup>ia &  
 pdic<sup>t</sup> def. eat inde sine die, sc. Et Ulric<sup>r</sup>  
 riis (as before).

Intratio non pros' pro defectu General  
 Exit'.

You must take a Rule pdic<sup>t</sup> Def. per' quod pdic<sup>t</sup>, Quer<sup>r</sup> replicaret ad plitum ipsius def. super quo dia<sup>r</sup> est eidem Quer<sup>r</sup> per Cur<sup>r</sup> dict<sup>r</sup> Domini Regis nunc hic quod ipse replicaret ad pdic<sup>t</sup> plitum & intraret Exiit in plitum pdic<sup>t</sup> die . . . . prox' post . . . . periculo incumb Postea isto eodem Termino cozam dicit Dominu Rege apud Westm<sup>r</sup> veni pdic<sup>t</sup> Def. per Attorn<sup>r</sup> suum pdic<sup>t</sup>. Et pdic<sup>t</sup> Quer<sup>r</sup> licet solemnit exaci<sup>r</sup> non veni nec ad plitum pdic<sup>t</sup> def. replicavit nec est Willam suam pdic<sup>t</sup> versus eundem Def. ulterius plectur Id (ut supra.)

Non Pros' versus Quer<sup>r</sup> in Debito post  
 Demurrer junct' & custag' pro Def.

Ad quem diem veni in Cur<sup>r</sup> hic pdic<sup>t</sup> Def. p<sup>r</sup> Attorn<sup>r</sup> suum pdic<sup>t</sup> Et pdic<sup>t</sup> quer<sup>r</sup> quarto die plici solemniter exaci<sup>r</sup> non veni nec est ulterius prosecut Willam suam pdic<sup>t</sup> Id ipse & pleg<sup>r</sup> sui de prosequend sint in M<sup>r</sup>ia, sc. Et pdic<sup>t</sup> def. eat inde sine die, sc. Con<sup>r</sup>s est etiam quod pdic<sup>t</sup> def.  
 recuper-

recuperet versus p̄fāt Quer' dampna sua K's Bench.  
oc̄cōne p̄mis' ad . . . . eidem Def. ad re-  
quisiōnēm suam p̄ mis' & custag' suis in  
ea parte sustene secundum formam Statuti  
inde nup̄ evit & p̄vis' p̄ Cur' hic adjudi-  
cat (sc. ut in al').

Quer' nolle prosequi post Exit' junct'.

Postea scilicet septimo die . . . . Ans-  
no (sc.) vñd hic in Cur' pdic̄t quer' p̄ At-  
tor̄ suum pdic̄t & fatetur se hic in Cur'  
ulterius nolle p̄sequi & l̄lus p̄fāt def. in pli-  
to pdic̄t Ideo idem def. eat inde sine die  
(sc.)

Intrac' Non pros' ad Barram.

**Q**ui ad veritat' de infra content dicend Continue th  
elect triat & surat fuer' ac ad bar- Postea, as i  
ram hujus Cur' de verdicto suo de & sup̄ p̄ others usque.  
mis' reddend inter se coicand receller' &  
postea ad eandem barram p̄ veredicto suo  
in hac parte reddend revener' super quo  
pdic̄t quer' solemnitate exact' non vñd nec  
est ps' Willam suam infra script Iō, sc.

*Of Proceeding by Original Writ  
in B. R.*

**I** Have before observed under Ejectment,  
That the Proceedings in this Court by  
Original Writ, are almost the same, as in  
the Court of Common Pleas.

But note, You seldom proceed against  
any Person by Original in the King's  
Bench, in Actions of Debt, Detinue, Co-  
venant or Account, tho' you may in all  
other personal Actions, whereas the Court  
of Common Pleas, in their Way of Pro-  
ceeding by Original, do take in all Man-  
ner of Actions, as well real as personal,  
and mixt.

If the Defendant is to be arrested or  
served with a Copy of the Process in *Lon-  
don*, you draw a *Præcipe* for the Filacer in  
this Form.

The *Præcipe*. Lond. s. **S**I A. B. see<sup>c</sup> vos secut<sup>r</sup> tunc  
**S**pon<sup>d</sup> C. D. nup<sup>r</sup> de (na-  
ming the Place of the Defendant's Abode)  
in Wallia vīa (the Addition of the Defen-  
dant's Degree, Trade or Occupation) de  
plito quare cum pō C. D. (and so set forth  
the whole Cause of Action as in a Decla-  
ration but instead of inde pōde<sup>r</sup> sectam, &c.  
say ut dicitur). Under the *Præcipe* write  
**D**rig'

Orig' ret in Banco Regis in Octab Puriss K's Bench:  
cacon Beate Marie ubicunque, &c.  
Cap' ret quindecim Pasche.

[E. F. Att Due<sup>r</sup>.]

If the Action be laid in *Middlesex*, then *Precipe in Middlesex*.  
you must draw your *Precipe* thus.

Midd, sc. S I A. B. fec<sup>t</sup> te secut tunc pone  
S C. D. nup de Islington in Com<sup>d</sup>  
tuo Armiger', (sc.)

The Original is the Foundation of the *Capias*, and all other Process sued out afterwards, the Return whereof is usually the *Teste* of the *Capias*, except it be upon the Essoin-day of any Term, and then the *Capias* must be tested the First Day of that Term; and there must always be Fifteen Days between the *Teste* and Return of the Original, and likewise of the *Capias*.

But if you set down the Return of the *Capias*, the Filacer of Course takes Care of the rest: For most commonly the *Capias* is taken out before the Original (as the Course is in the Common Pleas) by leaving the *Precipe* with the Filacer, who makes you out a *Capias* thereupon, or you may for Expedition make your *Capias* out your self and let your Filacer sign it, and then carry it to be sealed at the Seal-Office.

The

K.'s Bench. The Precipe is left with the Filacer and he carries it with others in convenient Time to the Cursitor, who makes him Originals thereupon, and after they are Sealed delivers them to the Filacer, who after they are returned files them with the *Custos brevium*.

The Form of the *Capias* in *London*, is as follows.

The *Capias*.

**G**orgius Dei Gratia Magistri Brit' Franc' & Hib' Rex fidei Def. &c. Vic' Londini Saltem p̄cipimus vobis quod Caspiat' C. D. nup de (sc.) si invent' fuerit in Wallia v̄ta Et eum salvo Custod' ita quod heat' Corpus ejus cor' nob̄ in quindei Pasch ubicunque tunc fuerimus in Anglia ad respondend A. B. de plito (setting forth the Action as in the Precipe) ad dampnum ipsius A. — lib' ut' dicitur Et heat ibi hoc v̄re T. Roberto Raymond M̄k apud Westm — die — Anno r̄i m̄d XIII°.

If the Defendant cannot be taken where the Action is laid, \*but resides in some other Country, then upon a *Non est inventus* returned upon the *Capias* directed to the Sheriff of the County where the Action was first laid, the Filacer thereof will make you a *Testatum Capias* into any other Country ; or the Filacer will make you out, or you may make out your self, a *Testatum Capias*, without first taking out

the *Capias*; and this *Testatum Capias* is often sued out by the Filacer of London and Middlesex, in order to try the Cause there, if the Defendant resides in another County.

The Form of the *Testatum Capias*, out of London into Berks.

**G**oegius, &c. Vic' Berks salutem Pres-  
cipimus tibi quod *Capias C. D.* nup-  
de R. in Com' Berks Gen' si invent' fu-  
erit in ballia tua Et eum salvo custod ita  
quod habeas Corpus ejus coram nob—  
ubicunque tunc fuerimus in Anglia ad re-  
spondend A. B. de plito (as in the *Precipe*)  
and after ut dicitur you add pro eo quod  
Vic' R' London nob ad certum diem jam  
perit mans quod pō C. non est invent'  
in ballia V'ra cum *Testatum* exist' in Cur'  
nostra coram nob quod p̄cepit C. latit' &  
discurrit in Com' tuo Et heas ibi hoc b̄ze-  
be T. Roberto Raymond Wilk (sc.)

The *Alias*, and *Pluries Capias*, and *Te-  
statum Capias* are the same as the former,  
only adding after p̄cipimus tibi sicut alias  
(or pluries) p̄cepimus (sc.)

On these Special Writs by Original (where the Damages are laid above 40 l.) you pay a Fine to the King, which the Filacer receives for the Cursitor, and is as followeth.

| F Rom 40l. to 66 : 13 : 4 | l.      s.      d. |
|---------------------------|--------------------|
| i.e. 100 Marks.           | } 100 : 6 : 8      |

From 100 Marks to 100 l. — 00 : 10 : 0

|                           |                |
|---------------------------|----------------|
| From 100l. to 133 : 6 : 8 | } 100 : 13 : 4 |
| i.e. 200 Marks.           |                |

|                                   |                |
|-----------------------------------|----------------|
| From 200 Marks to<br>166 : 13 : 4 | } 100 : 16 : 8 |
|-----------------------------------|----------------|

From 166 : 13 : 4 to 200l. 01 : 0 : 0

For every 100 Marks more 00 : 6 : 8

For every 100 l. more — 00 : 10 : 0

Upon this *Capias* the Defendant is arrested if bailable, and the Sum for which the Defendant is held to Bail, must be endorsed on the Back of the *Capias*, in this Manner, *Sacr'um Quer' affil' pro* (the Sum in the Affidavit) and the Filacer signs it.

The Defendant being \* arrested, and K.'s Bench Bail above being put in before the Fila-<sup>w</sup>cer, you then proceed to draw your De-claration in this Manner.

Pasche XIII<sup>o</sup> Georgii Regis.

\* If the Def. be only ser-ved, he must enter his Ap-pearance with the Fi-lacer.

London ss. C. D. nup de as in the Ca-pias Attach fuit ad Re-spondens A. B. de plito (as the Case is) Et Unde idem A. p E. T. Attornatum su-um Queritur Quare Verbatim as in the Capias, but instead of ut dicitur you say Et inde producit sectam, &c.

You Write this Declaration copy-wise, deliver it to the Defendant's Attorney who will pay 4 d. per Sheet. You give a Rule to plead with the Clerk of the Rules and demand a Plea of the Defendant's At-torney before the Rule to plead is out.

Note, it is said that if the Writ be re-turnable the first Return of *Hillary* or *Trinity* Term; or the First or Second Return in *Easter* or *Michaelmas* Term, the Defendant must plead the same Term, if Rules are given in Time. If it be a Coun-try Cause, the Defendant may plead at any time in the Term; but if the Cause be laid in *London* or *Middlesex*, the Defen-dant must plead, before the Rules to plead are out.

If the Defendant pleads, you make up the Record, sue out your *Venire*, *Disirin-gas*,

K.'s Bench. gas, and Subpna's, making them returnable on a general Return-Day, *ubicunque* (¶c.) as is before directed.

Page 225. to  
232. & Vide  
Title Ejec-  
ment. You sign these Writs with the same

Filacer; but you enter your Proceedings with Mr. Lantrow; seal your Record at the *Nisi prius* Office in *Grays-Inn*; draw your Breviats, fee your Counsel, summon your Witnesses, and proceed to Trial.

And if there be a Verdict against the Defendant, you must give a Rule upon the *Postea*, then stamp and enter it, and sign your Judgment with the Secondary, who will tax your Costs; then sue out your Writ of Execution, making it returnable as others on a general Return-Day, *Ubicunque*, &c.

Observe, that if the Defendant pleads Specially, the Plaintiff's Attorney hath the Liberty of making up the special Pleadings himself, without applying to the Clerk of the Papers for that Purpose.

But note, That the Court will not grant Oyer of any Original, unless Oyer is demanded within 4 Days after the Rule to plead is given,

If the Defendant does not plead, but lets Judgment go by Default against him, you proceed in the usual Manner to execute a Writ of Enquiry in the following Form.

*Writ of Enquiry.*

**G**EOrgius (sc.) Vic' London salutem  
Cum C D. nuper de (sc.) Attach> fu-  
it essend in Cur*r* nostra coram nob*v* de plas-  
cito (and so on as in the Declaration)  
ad dampnum ipsius A. ——— liv*r* ut dicitur  
Taliterque (sc.) before in the King's Bench,  
Page 137. Only you make the Writ re-  
turnable on a General Return-Day ubi-  
cunque (sc.) and after Inquisition ille say,  
ceperitis mittatis unatum hoc breve T. (sc.)

In this Method of Proceeding by O-  
riginal Writ, a Writ of Error cannot  
be brought, or at least returnable, but  
when the Parliament is sitting.

Of

## Of Proceeding by Original to the Outlawry.

Y O U may proceed in Trespass, and Trespass upon the Case, but not in Debt or Covenant, which is thus: You must draw up your Instruction for the Original according to your Case, and carry it to the Cursitor of the County, where you will try the Action; if you carry it within the first Week of the Term, then the Original will be returnable the first Day of the next preceeding Term, but you must take Care that your Action did arise so long since, so as not to date the Original before the Cause of Action.

Then carry your Original to the Filacer of the County (who will make you out *Capias, Alias & Pluries*) if you proceed to Outlawry, each of which must be 15 Days between the Date and the Return; you return them *Non est inventus* of course, and file them with the *Custos Brevium*. And the same *Filacer* will make you out an Exigent, and Proclamations, which are made returnable after five County Courts, (which are held but once in four Weeks) if the Action be laid in the Country.

But if it be laid in London, six Weeks K.'s Bench. Time will serve, because the *Hustings* are held every Fortnight. The *Filacer* of London and *Middlesex* will of Course make you out the *Capias*, *Alias* and *Pluries*, and get them returned and \* filed himself, and \* He also will likewise make out for you the files War-Exigent and Proclamation; you seal the <sup>rants of At-</sup> Exigent and carry it to one of the Comp-<sup>tory for</sup> you. ters to be perfected, and the Proclamation being sealed, you send it down to the Sheriff of the County of which the Defendant is named, to be executed. When the Proclamation is returned, you should † file it † in London with the *Custos Brevium*, and your *Exigent*, you file it being also returned, you carry it to the <sup>with the Fl</sup> *Clerk of the Outlawries*, who will make you out a *Capias utlagatum*, either General or Special; the one is against the Body only, the other against Body, Lands, and Goods.

If there be not five County-Days between the *Teste* and Return of the *Exigent*, you may procure an Allocatur from the *Exigenter*, to bring in the five County-Days; and so in London if a *Husting* be wanting.

If the Defendant appears on the *Exigent*, and supersedes the *Outlawry*, wherein having entered an Appearance by Attorney with the *Filacer*, the Plaintiff is to declare against him, and deliver the Defendant's Attorney a Copy of the Declaration, to which the Defendant, if Rules are given in Time, must plead the

K.'s Bench same Term, and if there be special Pleadings, the Plaintiff's Attorney has the Privilege of making up the Paper-Book,  
• &c.

*Vide post.* Title, Exigent and Outlawry, more concerning the Method of Appearing to, and superseding the Exigent, and reversing the Outlawry.

A Jurata upon a Writ of  
*Scire facias.*

I Dem dies dat est partibus pdic' ibm  
sc. Ad quem diem coram Dño Rege  
apud Westm vnde partes pdic' p Autord  
suos pdic' Et Wic videlicet A. B. retorū bre  
Domini Regis de Venire fac ei in forma  
pdic' direct in omnibus servit & execut u-  
nacum panello de nobibz Jur' eidem bre  
annex' quorum null, sc. Ideo pcept' est eis  
dem Wic quod Distring' Jur' pdic' p om-  
nes terras, sc. Et quod de exi, (sc.) i-  
ta quod habeat corpora eorum coram Dño  
Rege a die pasche in quindecim dies ubi-  
cunque, sc. vel coram Justie Domini Re-  
gis ad alias in Com S. capiend assignd  
si prius die .... apud .... p formam Stat,  
sc. vnde p defeciu Jur', sc. idem dies dat'  
est partibus pdic' ibm, sc. Et sciendum  
est (sc. as before in other Jurata's.)

Upon



## Upon an Original.

¶. Jur' int' D. E. quer' & A. B. nup  
de C. in Com' pdict' Peom' de placito  
Transgr' sup Casum ponitur in respectu  
coram Domino Rege a die S'ti Michis in  
tres Septimanias ubique, (sc.) Miss Ju-  
stic Domini Regis ad Alias in Com'  
pdict' capient assignd, (sc. ut in al) idem  
dies dat' est partibus pdict', sc. Et sciens  
dum est (sc. as in others; see before.)

*Note, The Day in Bank must be on a  
Return - Day, but the Day of  
Trial on a Day certain, as Friday 21st  
of July, &c.*

## Upon an Audita Querela.

¶. Jur' int' A. B. p Attorn suum quer'  
& C. D. ad recognit' utrum Administratio om-  
nium honorum & catalogorum Jurid' & Cres-  
ditor' qz fuer' E. F. defunct' comissa fuit G.  
H. necne ponitur in respectu coram Dno  
Rege a die Pasche in quindecim dies ubique,  
sc. vel coram Justic, sc. (as before.)

If in London, say,

Ubicunque, &c. nisi J. H. mis Capital  
Justie Domini Regis ad plita in Cur' ipsius  
Domini Regis coram ipso Rege tenend  
assidu' prius die, (as before upon the like  
*Jurata.*)

Upon a Writ of Error brought, and Issue.

L. s. Inv' int A. B. nuper de, (sc.) p  
Attoriū suum quer' & C. D. Gen' ad recognit  
sup Sacram' suum utrum pdict A. B. tem  
poze reddicōn' Judicij pdict Eius eund A.  
B. ad sect' pdict C. scilicet die Veneris px'  
post Crastin' H'c Trinitatis anno 1720. an  
noque Regni die Domini Regis nunc sep  
timo fuit infra etat' viginti & unius an  
nozum necne ponitur in respectu, &c.

When the Sheriff is a Party to the Re  
cord, say at the latter End;

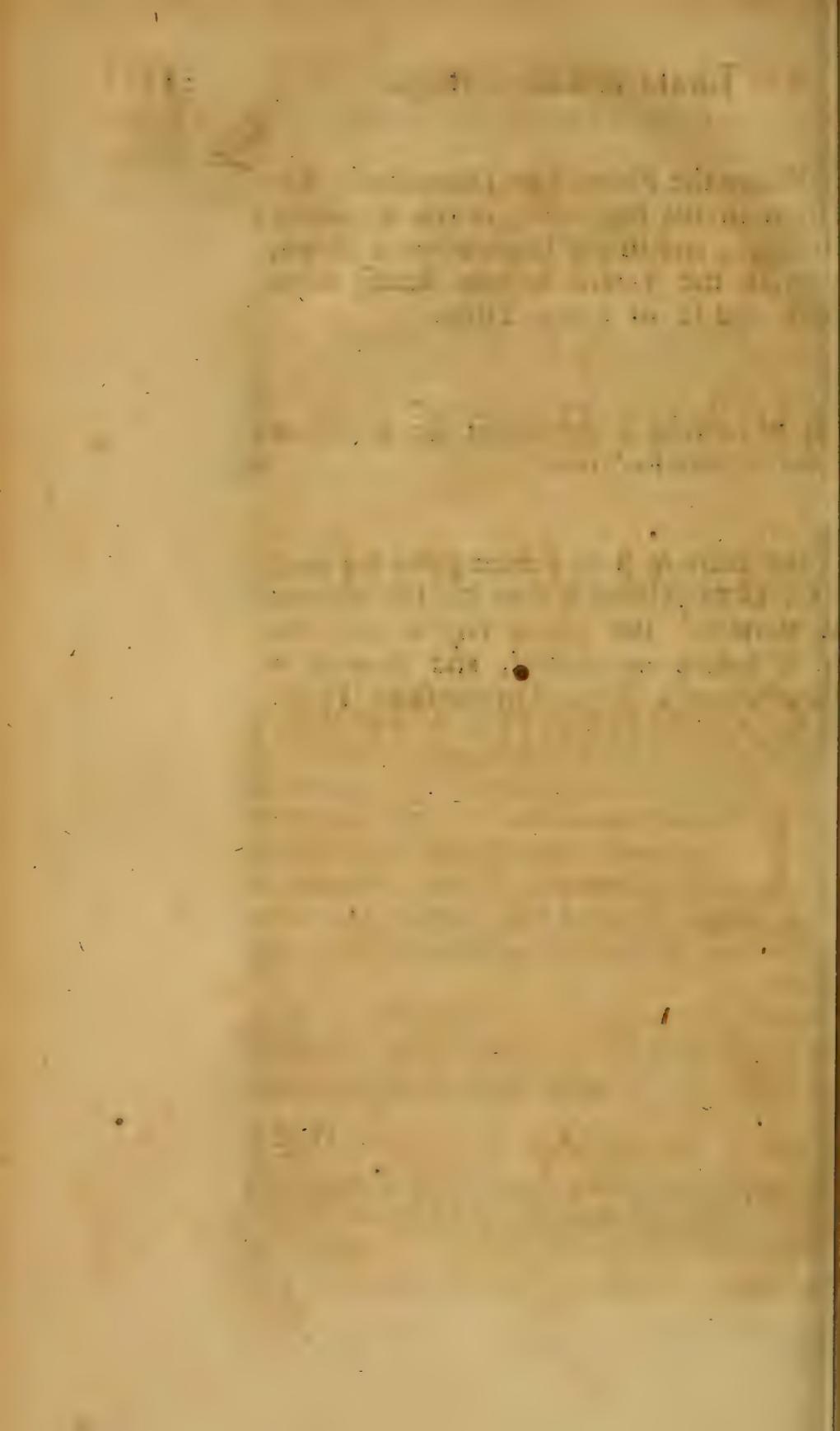
D'liberatur de Recordo Coron' Com' p  
dict' in forma Juris exequend' piculo incums  
bel', &c.

Where

Where the Plaintiff or Defendant's Addition in the Beginning of the Record is Armiger, and in the Conclusion is Miles, then in the Jurata say nup Armig modo Mil and so of other Titles.

I have seen a Precedent for a Jurata upon a Scire Fac<sup>t</sup> thus.

Jur<sup>r</sup> inter A. B. in propria persona sua quer<sup>r</sup> & C. D. de plito debi unde Sciri fac<sup>t</sup> ponitur in Respcnd. But others said it must be as is before mentioned, and shewed a Jurat upon a Record in the same Term,



THE  
AUTHORITY  
AND  
JURISDICTION  
OF THE  
COURT  
OF  
Common Pleas.

THE Jurisdiction of this Court is general, and extends it self thro'out *England*, in like Manner as the King's Bench ; but this Court is fixt, and must be held in a Place certain, and does not follow the King, as the King's Bench formerly did ; it holds Pleas of all civil Causes at Common Law, between Subject and Subject, in Actions real, personal and mixt.

Real Actions, such as concern Inheritances, by which Fines and Recoveries pass, and all others by Original Writ ; Personal Actions of Things transitory, as Money, Goods, Chattel personal, &c.

Com. Pleas. Mixt Actions partaking of the Nature of both, as *Ejectione firmæ, Quare Impedit, Waste*; wherein is recovered not only the Land or Personage, but likewise Damages for Detainer, Disturbance in Presentation, &c. Actions popular, as *Decies tantum, Champerty, Maintenance, &c.* are cognizable by this Court: Actions penal, as Actions for Debt, &c. upon any Statute which gives a Penalty for the Breach thereof, to those who will sue for the same.

Regularly this Court cannot hold any Plea in Actions real, personal or mixt, but by an Original Writ out of the Court of Chancery, returnable in this Court, unless it be by Bill, for or against any Officer, or other privileged Person of the Court. Prohibitions to keep Inferior Courts within their due Bounds, &c.

In personal and mixt Actions this Court and *B. R.* have for the most Part a concurrent Jurisdiction, but none are admitted to plead at the Bar of this Court, but Serjeants at Law. This Court hath no Cognizance of Pleas of the Crown.

*The Judges are,*

Judges.

THE Lord Chief Justice, and Three other Justices.

Their Patents are *quam diu se bene gesserint.*

Clerks

## Clerks and Officers.

THE *Custos Brevium* is the Chief Clerk in this Court; he receives and keeps all Writs returnable here, filing each Return by it self, and at the End of every Term receives from the Prothonotaries, all the Records of *Nisi prius* or *Postea's*, (which were first brought by the Clerk of Assize of every Circuit to the Prothonotary who entered the Issue, who gets the Clerk of the Judgments to enter up Judgment thereon, and then the Prothonotary gets of the Court a Poreemptory Day, for each Party to speak in Arrest of Judgment, which being past, he enters the Verdict and Judgment thereon in the Rolls of Court,) and at the End of every Term, the Clerk of the Judgments delivers to the *Custos Brevium*, all Records of *Nisi prius* come in that Term, who filing the Record together, carries them into the Treasury of the Records: He also enters the Writs of Covenant, and Concordts of all Fines, and makes out Exemplifications and Copies of all Writs and Records thereupon, and also the Foot of every Fine filed with him, after every Fine is engrossed, the Parts thereof are divided between him and the Chirographer, whereof the Chirographer keeps the Writ of Covenant, and the Note of the Fine,

Com. Pleas. Fine, and the *Custos Brevium* keeps the Concord and the Foot thereof, on which Foot the Chirographer causes the Proclamations to be endorsed when they are proclaimed.

Prothonota-  
ries.

The Prothonitaries of this Court are three, and each in his Office enters and enrols all Declarations, Pleadings, Assizes and Judgments, and all other Entries of the Clerks and Attornies belonging to each of the Offices, the same Term the Appearance, &c. is made. They make out all Judicial Writs, *Venire facias*, *Habeas Corpus*, Writ of Execution and Seisin; Writs of Privilege to remove Causes from inferior Courts, where the Party has Cause of Privilege, and *babeas Corpus cum Causa*, *Procedendo*, *Scire facias*, Writs of Enquiry of Damages; and all Process upon Prohibitions, *Audita querela's*, false Judgment; they also enroll all Recognizances acknowledged here (except Recognizances on Bail and Original Writs, which is done by the *Filacer*) and all common Recoveries, and may make Exemplifications of any Record of the same Term, before the Rolls are delivered out of their Hands.

Each

Each Prothonotary has a Secondary, <sup>Secondaries.</sup> who are Assistants to them in the Execution of their Office.

The Clerk of the Warrants enters all Warrants of Attorney for Plaintiff and Defendant, and all Deeds of Indenture, of Bargain and Sale, acknowledged in Court, or before any Judge thereof out of Court, and Estreates into the Exchequer all Issues, Fines and Amerciaments, which any way grow due to the King in this Court.

The Clerk of the Essoins keeps the Roll thereof, wherein he enters them and exemplifies Non-suits and Essoins, for which certain Fees are appointed; he also provides Parchment and cuts it into Rolls Marking the Numbers thereon which he delivers out, and receives again after they are written, and makes them up in Bundles or Files, each Term.

There are several Filacers, among whom the several Counties in England are divided, they make out all Mesne Process, between the Original Writ and the Declaration (but where it is an Attachment, or Bill of Privilege, Prohibition or the like, that is wholly in the Prothonotary's Office, and where the Defendant is summoned) The Filacers

**Com. Pleas.** moned or resummoned, they issue out Distress infinite till Appearance; they make out all Writs of View, and Writs of Supersedeas where the Defendant appears in their Office after a Capias awarded, they may also enter Inparlances or General Issues, where the Appearance is entered with them, and Judgments by Confession thereupon before Issue joined, and Writs of Execution on the same, but if it be after a Verdict, though they enter the Issue, yet the Prothonotary must enter the Judgments.

**Exigenters.** The Exigenters are Four, who make all Exigents and Proclamations in order to an Outlawry.

**Clerk of the Juries.** The Clerk of the Juries makes out all *babeas Corpora Juratorum*, for summoning Juries to appear either in Court or at the Assizes, after the Panel is returned by the Sheriff, on the *Venire facias*, and enters in his Rolls the Awarding of the said Writs, and makes all Continuances till the Verdict given.

**Chirographer.** The Chirographer by his Deputy, engrosseth all Fines upon Writs of Covenants, and maketh a perpetual Record thereof, after they are passed through the other Offices, and makes and delivers Indentures of them to the Parties; and another Part, called the Foot of the Fine, containing the Effect thereof, he makes and delivers to the *Custos Brevium*; he also by him-

himself or Deputy proclaims all the Fines Com. Pleas. in Court every Term according to the Statute, and then repairing to the *Custos Brevium* Office, he there endorses the Proclamations on the Foot, and always keeps the Writ of Covenant, and the Note of the Fine.

The Clerk of the King's Silver, to Clerk of the whom all Fines are brought after they King's Silver have been with the *Custos Brevium*. He also enters by way of Abstract in a Paper-Book, the Substance of the Writ of Covenant, according to which Notes all Fines are entered on Record in the Rolls of the Court every Term.

The Clerk of the Errors, who certifies into the Court of King's Bench, all Records upon Writs of Error returnable in that Court; he also makes all Writs of *Supersedeas, non molestando, &c.* granted for the Defendant, pending a Writ of Error.

Clerk of the Errors.

The Clerk of the Treasury hath the Clerk of the keeping of the Records of the Court, and Treasury. makes up, and seals all Records of *Nisi prius*, takes Fees for all Searches in the Treasury, and makes all Exemplifications of Records lodged in the Treasury, and all Copies of Issues, Imparlements and Judgments, and of all Informations and Recognizances on Record in the Treasury, he is a Servant of the Lord Chief Justice, and removable at his Pleasure — The Officers before mentioned are for life.

Com. Pleas.

Clerk of the Seal.

The Clerk of the Seal seals all Writs, Judicial and Ministerial, and also of the Mesne Process, made by the Filacers, also Writs of Outlawry and Supersedeas, and all Patents, and Exemplifications, and takes Fees for the same.

Clerk of the Outlawry. The Clerk of the Outlawries, is only a Servant to the Attorney General, for making out the *Capias utlagatum* after Outlawry, and the Attorney General's Name is to every one of these Writs.

Clerk of the Inrolments. The Clerk of the Inrolments returns all Writs of Covenant upon all Fines whatsoever, as also all Writs of Entry, Summons and Seisin upon Common recoveries as Deputy on Record, appointed by the Court for all the Sheriffs of England; he also enrolls all Fines and Recoveries with every Writ and Entry belonging thereunto severally, and at the Request of the Party exemplifies the same.

### The Common Pleas.

**I**N the Court of Common Pleas, a Young Clerk will have but little to do in filling up Writs for the first Process, there being proper Officers for that Purpose as the Cursitors, Filacers, &c.

But

But before we proceed to such Things<sup>Com. Pleas.</sup>, as will be his chief Employment; it may be proper to observe, That the Instructions for the first commencing a Suit in the Court of Common Pleas, is by *Precipe* and *Pone* which he must draw on Paper after the following Manner, and it serves both for the Original and the *Capias*; being delivered to the Filacer of the County.

The Original is the Warrant to every *Capias*, and the Return of the Original, is the *Teste* of the *Capias*. But if you set down the Return of your *Capias*, the Filacer of course takes Care for the rest.

### A Special Precipe in Debt.

Midd s. **P**recipe C. D. nuper de Westm Gen (alias dict' if any) quod reddat A. B. 40 l. quas ei debet Et inuste detinet.

**C**ap ret' Crim Animar.

Note, If it be upon a Specialty, as *Bond*, *Bill*, &c. You must draw your Precipe with an *alias dictus* as in the Bond or Bill *literatim*, or if it be upon an Indenture the *alias dictus* must be recited *literatim*, as in the Indenture

## The Special Capias in Debt:

**G**orgius secundus Dei Gra' Mag' Brit'  
**F**ranc' & Hibernie Rex fidei defensor;  
 &c. **Vic' Midd saltm** Precipimus tibi quod  
 capias C. D. nup de Westm in Com' tuo  
 Gen alias dict', (sc.) si inveni fuerit in bal-  
 liba tua Et eum salvo Custod ita quod heas  
 Corpus ejus coram Justic' nr'is apud Westm  
 in Cro' animarid ad Respondend A. B.  
 de plito quod reddat ei quadragint' Liby'  
 quas ei debet & injuste detinet ut dicitur Et  
 habeas ibi hoc bre T. R. Eyre apud Westm  
 die ————— Anno rni nr'is primo.

*Vide ante 39.* Note, If the Action be bailable, and you would hold the Defendant to Bail, the Plaintiff must make an Affidavit of his Debt, if it be 10 l. or above, according to the Act 12 Georgii, and then the Filacer will endorse the Sum mentioned in the Affidavit on the Back of the Writ in this Manner,

in p 20 l. sup Sacc Quer.

In a Writ you may have Four Defendants, yet you can have but one Plaintiff, unless it be in a Joint Action.

If you would have several Defendants in one Original, draw your Precipe thus.

Midd sc. Recipe C. D. nup de Isling. Com. Pleas.  
 ton in Com<sup>d</sup> tuo Gen<sup>d</sup> (alias dict' if any) quod reddat A. B. 50 l. Precipe  
 E. F. nup de (sc.) quod reddat (sc.) 40 l.  
 rei' Cro' Animar<sup>d</sup>.

## The Special Capias thereupon.

Gorgius (sc.) Uie Midd salutem Precis  
 pimus tibi quod Capias C. D. nup  
 de Islington in Com<sup>d</sup> tuo gen<sup>d</sup> alias dict<sup>d</sup>  
 (sc.) & E. F. nuper de (sc.) si invent<sup>d</sup>  
 fuerint in balliva tua Et eos salvo custos  
 ita quod heas corpora eorum coram Justic<sup>e</sup>  
 nris apud Westm<sup>d</sup> in Cro' animar<sup>d</sup> ad  
 respondend<sup>d</sup> pd A. d<sup>e</sup> pl<sup>c</sup>ico quod pd' C. red-  
 dat ei 50 l. quas ei debet & iuste deti-  
 net & quod pdict<sup>d</sup> E. reddat ei quadragint<sup>d</sup>  
 libr<sup>d</sup> quas ei debet & iuste detinet ut  
 dicitur Et heas (as before).

Note, That all Precipes quod reddat are  
 fineable if above 40 l. to 100 Marks, 6 s.  
 8 d. from 100 Marks to 100 l. 10 s. and  
 so on ; for which see the Proceedings by  
 Original in the King's Bench.

If you would avoid the Fine draw a  
 Pone for a Capias only in Debt after this  
 Manner.

## Pone in Debt.

Midd sc. si A. B. fec<sup>d</sup>, sc. pone, sc. C.  
 D. nup de Islington in Com<sup>d</sup> tuo Gen<sup>d</sup>  
 aceriam in debito p 40 l. Ret Cro' Ani-  
 mar<sup>d</sup>.

## Of Precipes.

## The Capias thereupon.

Georgius (sc.) Vix Mido salutem Precipimus tibi quod capias C. D. nup de J. in Com' tuo & Iohem Doe si invent' (as before) ad respondend A. B. de plito quare vi & armis Clm' ipsius A. B. apud Westm' fregit & alia Enormia ei intuler ad gve dampnum ipsius A. B. & contra pacem n'm' Acetiam quod pdic' C. respond eidem A. secundum Cons' Cur' nre de hco in quodam plito debi sup Demand quas dragint' Libraq' Et heas (sc.)

If Alias or pluries Capias you say Pre-  
cipimus tibi sicut alias (or pluries) tibi Pre-  
cepimus quod Capias, (sc.)

Pone in Case for Book-Debts, Promises,  
&c.

Mido S. Si A. B. fec' sc. pone C. D.  
nuper de (sc.) Acetiam in Case p 20 l.  
rei in Cro' animarid

## The Capias.

Georgius (sc.) Vix M. salutem Precipi-  
mus tibi quod Capias C. D. nup de J.  
in Com' tuo Gen' & Iohem Doe si In-  
vent' (and so follow the Words in the  
last Capias) Acetiam quod pdic' C. Respond  
eidem A. leon' cons' Cur' nre de Banco  
in

in quodam plito transgr<sup>r</sup> sup casu super Com. Pleas.  
assump<sup>cōn</sup> ad dampnū ipsius A. Vigint'   
Librarum Et heas (sc.)

But if you have 3 or 4 Defendants,  
who are indebted in several Sums of 10l.  
or above to the Plaintiff, both in Debt  
and Case, you must say.

Acetiam separatim ad respond eidem A.  
B. secund cons' Cur<sup>r</sup> nte de Banco (vidit)  
pdic<sup>t</sup> C. in quodam plito transge super  
Casu sup assump<sup>cōn</sup> ad dampnū ipsius  
A. B. quadragini' libz' pdic<sup>t</sup> E. in sili pli-  
to ad dampnū ipsius A. B. vigint' libz'  
Et pdic<sup>t</sup> G. in quodm' plito debi super  
demand<sup>r</sup> Vigint' Libz' Et heas (sc.)

### Pone in Trespass.

Wid<sup>d</sup> Si A. B. fec<sup>r</sup>, sc. tunc pone, sc. C. D. You are not  
hyp de W. in Com<sup>r</sup> tuo Celi E. F. G. H. limited to  
I. K. L. M. de plito quare vi & armis Clm any Number  
ipsius A. apud W. freger<sup>r</sup> Et at Enormia of Defen-  
ei intuler<sup>r</sup> ad grave dampnum ipsius A. Et Clausum fre-  
contra pacem, sc. git.

Ket. tres Trin.

### Or thus in Short.

Clausum freg<sup>r</sup> apud W. Ket. tres Trin.

## Of Precipes.

## The Capias.

Georgius &c. Vix M. salutem Precipimus  
tibi qd capias C. D. nup de (re.) (as before)  
a die Sce Trin in tres septanas ad res-  
pond A. B. de plico quare vi & armis  
Clausum ipsius A. apud W. freger & alia  
enormia ei intuler ad gve dampnum ip-  
sus A. Et contra pacem nrm. &c.

Upon this Clausum fregit you may de-  
clare as you please, it being only to  
bring the Party into Court.

Note, If you have an Occasion to pro-  
secute by Qui tam upon a penal Statute,  
some Filacers insist that 'tis fineable.

But upon a Latitat in the King's  
Bench, no Fine is demanded, and  
'tis made only in Trespass. See be-  
fore.

No Qui tam holds to Special Bail.

## Precipe in Assaule and Battery.

London s. Si A. B. fec', &c. Pone, &c.  
C. D. nup de L. Yeoman de plico quare  
vi & armis in ipsum A. apud L. Insult'  
fecit & ipsum verberavit vulneravit & male-  
tractavit ita quod de vita ejus desperabatur Et  
alia enormia ei intulit ad grave dampnum  
ipsius A. Et contra pacem, &c.

Or

Or in Short.

De plito Transgr & Insult' rei' tres  
Machis.

Capias in Assault.

Georgius, &c. Uic L. salutem Precepti-  
mus, &c. (as before) ad respondend A. B.  
de plito quare vi & armis in ipsum A. ins-  
ult' fecit & ipsum A. apud L. habuit vul-  
neravit & malestracavit ita quod de vita e-  
ius maxime desperabatur & alia enormia ei  
intulit ad g've dampnum ejus Et contra  
pacem nostram, &c. Et heas (&c.)

If you would have Special Bail upon  
Assault and Battery, a Special Writ will  
not do it, tho' the Damages are laid ad  
dampnum 100 l. but the way is for the  
Plaintiff to make Affidavit of the Special  
Damages, and get a Judge's Hand to it,  
for inserting an *Acetiam* in the Common  
*Clausum fregit*; but a Special Writ may  
hasten the Trial.

Precipe in Covenant.

Midd s. Precipe C. D. nuper de J. in  
Com' pdict alias dictus (as in the Inden-  
ture)  
Z 3

Com. Pleas. ture) ad respondō A. B. de p̄lito quod teneat ei convenēt int' eos fact' secundū vim formam & effectum quarundam Indentur int' eos confec' ret', sc.

### Capias in Covenant.

Georgius (sc.) Vīe M. salutem Precipimus (as before) coram Justicē n̄is apud Westm̄ in Crō animarum de p̄lito quod teneat ei convenēt int' eos fact' secundū vim formam & effectum quarundam Indentur int' eos confec' sc. Et heas, (sc.)

If a Defendant lives within a Liberty which the Sheriff cannot enter upon a Capias, you may get the Filacer of the County, to make out a Non Omittas directed to such Liberty where the Defendant resides, without your having a Capias first from him.

### The Non Omittas.

Georgius, sc. Vīe Suff. salutem Precipimus tibi quod non Dmitt' p̄p' aliquā Libertatē Sci Etheldred in Comā tuo quin capias (Def.) sc. si invent' fuer, sc. (as in others) Et contra pacem n̄iam Acetiam (if any, as in others) Et Unde tu ipse Mand' Justicē n̄is apud Westm̄ ad certum diem tam p̄terit quod Valli Libertatē pdict' cui virtute h̄ris n̄i tibi inde directi p̄cepisti quod caperet pdict' (Def.)

(Def.) null' tibi inde dedit respons' Et Com. Pleas.  
heas, &c.

## Precipe in Account as Receiver.

Surr<sup>r</sup> ss.

Prec<sup>e</sup> C. D. nup de E. in Com<sup>m</sup> pdict<sup>r</sup>  
Gen quod reddat F. G. rationabilem Com-  
pum suum de tempore quo fuit Receptor  
denar' ipsius F. &c.

If a Bailiff, then as before, to —— de  
tempore quo fuit Ballivus ipsius F. in E.  
&c.

If a Bailiff, and Receiver, then —— de  
tempore quo fuit Ballivus suus in E. Et  
Receptor denar' ipsius F. &c.

## In Detinue.

Surr<sup>r</sup> ss.

Prec<sup>e</sup> C. D. nup de E. in Com<sup>m</sup> pdict<sup>r</sup>  
Yeoman, quod reddat F. G. u<sup>m</sup> Equam u-  
na Waccam (as the Case requires) precii  
10 l. quas ei injuste detinet, &c.

## In Annuity.

Surr<sup>r</sup> ss.

Prec<sup>e</sup> C. D. nup de E. in Com<sup>m</sup> pdict<sup>r</sup>  
Yeoman quod redd<sup>r</sup> F. G. 100 l. q<sup>r</sup> ei aretra  
sunt de quodam annuo reddit<sup>r</sup> 50 l. quas ei  
debet & insulfe detinet, &c.

## In Ejectione Firmæ.

**Midd S.**

Si A. B. fec' &c. tunc pone, &c. C. D.  
nup de E. in Com' pdic̄ Yeoman Ad re-  
spond p̄fāt A. B. de placito quare Vi &  
armis unū M̄ssuag' & vigini' acr Terre  
cum p̄tiū in E. que F. G. p̄fāt A. dimi-  
lit ad terminū qui nondum pr̄terit intra-  
vit Et ipsum a firma sua pdici' ejecit Et  
alia Enormia, &c. Ad grave dampnum, &c.  
Et contra pacem, &c.

But this is not used now, the Way be-  
ing to deliver a Declaration to the Te-  
nant in Possession, as you may obſerve  
among the Declarations afterwards.

A Special Original to continue an Ac-  
tion, &c. This by the Cursitor.

Georgius secundus Dei Gratia Mag' Eric'  
Franc' & Hiberi' Rex fidei Defens', &c.  
Vic Midd Salutem Si G. B. fecer te se-  
curum de clam' iuo proꝝ tunc pone p vad  
& salv' pleg' J. M. nup de Paroch H̄c An-

*Note,* When  
the Teste of  
a Writ will  
come before  
the Cause of  
Action, the

best Way is to sue a General Writ, and afterwards a Special Original may be had to warrant the Judgment; but this is not intended of a Special *Capias* from the Filacer for Trial at the next Assizes, which is yet but *Capias*, and may want the Original.

*Memorand*, Writs returnable in London and Middlesex, and Declaration thereupon, now the Defendant must plead to Trial the same Term.

pe Westm' in Com' tuo Gid' quod. si Com. Pleas.  
peram Justic' nostr' apud Westm' in Crast'  
Purif. beate Marie estens' quare cum pdic'  
Johann duodec die Febr' Anno Dom' Mil-  
lesimo septingentesimo vicesimo septimo as-  
pud Paroch' Oci Egid' in campis indebitas  
fuisse p'sat Georg' in quadragint' libz' le-  
gal monete hujus regni pro diversis bonis  
mercimon' & merchandiz' eidem Johann per  
eundem Georg' ad special' instant' & requi-  
sition' ipsius Johann ante tempus illud vendit  
& delibera' Et sic inde indebit' existet ip-  
se pdic' Johann in cons' inde postea scilicet eis-  
dem die & Ann' & loc super se assumpsit &  
eidem Georg' adiunc & ibid' fideli promisit  
quod ipse pdic' Johann eisdem quadragint'  
libz' cum inde postea requisit' esset bene &  
fidel' solver' & contentar vellet, cumq; eti-  
am pdic' Johann eodem duodec die Febr'  
anno supradicto in consideracion' quod pdic'  
Georgius ad special' instant' & requisit' ip-  
sius Johann ante tunc vendidisset & deliberasset  
eidem Johann p'su Comitis M. diversas par-  
cellas vni ad valent' al' quadragint' libz'  
sup se Assumpsit & eis Georgio adiunc &  
ibidem fideliter pmisit quod ipse pdic' Jo-  
hann eisdem quadragint' libras ult' men-  
non' cum inde postea requisit' esset similiter  
bene & fidel' solver' & contentare vellet pdic'  
iamen Johann spar' pmis' & assump-  
cion' suas pdic' in forma pdic' fact' mini-  
me curans sed machinans & fraudulenter in-  
tendens eur' Georg' in hac parte callide  
& subpole deciper' & defraudar' pdic' sepa-  
rales deuoc' summas seu aliquem inde de-  
p'c' eisdem Georg' nondum solvit nec ei p  
eisdem aliquali' contentab' licet ad hoc fa-  
cien'

## Of Precipes:

Com. Pleas. ciens pdic' Johā postea scilicet eisdem die anno & loco supradict' & sep̄ius postea p eund̄ Georg' requisit' fuisse sed ilp ei huc usque solvere seu p eisdem aliquantit̄ contentare omnino recusavit & adhuc recusat ad dampnū ipsius Georg' centum librar̄ ut dicatur Et habeas ibi nomina pleg' & hoc breve Test' meipso apud Westm' 17 die Iunij Anno Regni nostri primo.

Or 99 l. because to mitigate the Fine.

If you intend to go to Trial the same Term your Writ is returnable, then make a Special *Precipe* thus :

A Special  
Precipe in  
Case.

Midd' s. Si A. B. fecit, ac. pone C. D. nup de W. in Com' pdic' Yeoman de plito quare cum p̄ C. (ac.) setting forth specially the whole Substance of your intended Declaration ad dampnum ipsius A. so l. ret' in Octab Sci Hile.

The Special *Capias* thereupon.

Gorgius secund ac. Wit' Midd lastem (as before) ad respondend A. B. Gen' de plito quare cum (setting forth the whole Cause of Action, as in the *Precipe*) ad dampnum ipsius A. quinquagint' libr' ut dicitur. Et heas (ac.)

If the Defendant lives in the Country, as for Instance in *Berks*, and you would try the Cause in another County, to wit, in *Suffolk*, the Filacer of *Suffolk* will, upon

on your carrying him the following Pre. Com. Pleas.  
cipe, of Course make out a Common Testatum into the County of Berks, without  
your first taking out a Capias in Suffolk.

Suffolk, fl. Si A. B. fec' &c. pone, &c. C. The Precipe.  
D. nup de (et.) acetiam p 40 l. sup assumton  
Testatum superinde Vic' Berks Transegr'  
apud Bury. Rei' (et.)

### The Form of a Common Testatum.

Georgius (et.) Vic' Berks saltem (et.)  
(as in others) ad respondend A. B. de plito  
quare vi & armis Clausum ipsius A apud  
Bury Sancti Edmundi (et.) Et contra pacem  
nraam Acetiam (et.) ad dampnum ipsius A.  
40 libz Et unde Vic' nij Suff.  
mandat Justic' nrnis apud Westm' ad certi-  
tum diem jam perierit quod pdict C. non  
est invent' in ballia sua cum testatum sic  
in eadem Cur' nostra quod pdict C. Lat-  
itat vagatur & discurrit in Com' tuo Et  
Heas (et.)

But if you would go to Trial, the same  
Issuable Term your Writ is returnable of,  
but not in the County where the De-  
fendant lives, then draw a Special Precipe for  
a Capias into the County where you would  
try the Cause, subscribing at the Bottom,  
Testatum supinde Vic' Com' where the  
Defendant lives; carry this to the Fila-  
cer of the County where you would try  
your

Com. Pleas. your Cause, and he will make out the  
 following Special Testatum,

Georgius, &c. Vic' Com' where the Defendant lives, Salutem, &c. as before, and setting forth the Cause of Action at large, ad dampnum ipsius A. 100 l. ut dicitur Et Unde Vic' noster Com' where you try the Cause, and so on as in a Common Testatum.

In all Cases where a *Capias* is Special, as in Debt, Covenant, Trespass, Case, &c. reciting the Cause of Action at large, it is fineable if 40 l. or above; And if the Special *Capias*, be made returnable the first Return, in *Trin.* and *Hill.* or the first or second in *Easter* and *Mich.* the Defendant must plead in four Days after the Declaration is delivered, if a Rule be given to plead, and a Plea demanded; but in a County Cause, the Court or a Judge will indulge the Defendant in further Time to plead, on the Defendant's agreeing to plead an Issuable Plea, and to accept of short Notice of Trial, for the next Assizes.

### Of Appearance and Bail.

**A** Appearance on Writ in the Common Pleas must be entered with the Filacer within four Days after the Return of the Process, otherwise the Plaintiff, on Affidavit of the Service of the Process, may enter an Appearance for

for the Defendant (according to the late Com. Pleas. A&t) and proceed in the Action, as if such Defendant had entered an Appearance for himself, but upon a Writ of Privilege a Common Appearance ought to be entered with the Prothonotary, out of whose Office the Writ issued, and not with the Filacer.

### Of Bail.

**I**N putting in Bail in the *Common Pleas* before a Judge, when the Action is what Actions laid in *London* or *Middlesex*, you must are bailable. <sup>Vide in B. R.</sup> do it within four Days after the Return of the Writ, otherwise the Bail-Bond may be assigned, and if it be at the Suit of a privileged Person, the Prothonotary's Clerk, is to go with you before a Judge, for which you pay him his Fee, 3 s. 4 d. but if it be at the Suit of another Person, then the Filacer of *London* and *Middlesex*, or his Clerk, will attend the Judge with you to put in Bail.

If the Bail be taken before Commissioners in the Country, it must be done pursuant to the following Rules and Orders, and transmitted to one of the Judges, and signed by him in such Time, and afterwards filed with the proper Filacer in such Manner, as the following Rules direct, otherwise the Bail-Bond may be assigned.

Com. Pleas.

**ORDERS to be observed by Commissioners  
empowered by Commission, in Pursuance of  
an Act of Parliament, for taking Special  
Bail in the Country upon Actions and Suits  
depending, or to be depending in His Ma-  
jesty's Court of Common Pleas at West-  
minster.**

**F**irst, It is ordered, That before any Bail  
be taken by Virtue of the said Act, a  
true Copy of the Writ on Parchment, to  
which the Defendant is to put in Bail, shall  
be brought to the Commissioner before  
whom such Bail is to be taken; and there-  
upon the Recognizance or Bail-piece, shall  
be fairly drawn and engrossed on the said  
Parchment Copy, in this or the like Form,  
as the Case shall be, (*viz.*)

A. B. Attor*y*  
x defend*s*

Manucriptores Johanes  
nes Denn de Black-  
barnesly in Paroch  
de Settle in Com*it* E.  
Gen*t* & Richus Fenn  
de eadem Gen*t*.

Capt & cognit decimo  
die Martii Anno  
Dom*in* 1720. de bene  
esse coram me A. B.  
uid Commissionar*s*.

Pars ipsa in  
20 l. uterque  
¶, in 10 l.

If the Defendant be not present, then  
the Bail are usually bound in double the  
Sum in the Writ, otherwise only single.

The

The Condition of which said Recognizance shall be to this Effect, *viz.*

YOU [naming the Defendant if present] do acknowledge to owe unto the Plaintiff 20 l. and you [naming the Bail] do severally acknowledge to owe unto the same Person the Sum of 10 l. a-piece; to be levied upon your several Goods and Chattels, Lands and Tenements, upon Condition, That if the Defendant be condemned in the said Action, he shall pay the Condemnation, or render himself a Prisoner in the Fleet for the same; and if he fail so to do, you [naming the Bail] do undertake to do it for him.

Secondly, It is ordered, That the Affidavit of the due Taking of every such Bail, shall be made either before some Judge of the Common Pleas, to whom the Bail shall be transmitted, or before some Person who shall have Power to take Affidavits in Matters and Causes depending in the said Court.

Thirdly, It is ordered, That all Bails taken by any Commissioner within the within forty Distance of forty Miles from the Cities of London and Westminster, shall be transmitted to the Lord Chief Justice of the Court of Common Pleas, or to one of the Justices of the said Court, within Ten Days

Com. Pleas. Days after the Taking thereof; and all  
 Bails taken by any Commissioner above  
 If above for the Distance of forty Miles from the said  
 ty Miles, in Cities of *London* and *Westminster*, shall be  
 twenty Days transmitted within twenty Days after the  
 Taking thereof, unless all the said Justices  
 shall be in their Circuits, and then as soon  
 as any of them shall be returned to *London*  
 out of his Circuit.

Fourthly, Also every Commissioner is  
 to have a Book kept purposely for entring  
 exactly the Names of the Defendant and  
 his Bail, and of the Plaintiff, as it is  
 in the Bail-Piece, and the Time of the  
 Taking thereof, and the Name of him by  
 whom such Bail shall be transmitted.

Fifthly, It is further ordered, That the  
 Plaintiff's Attorney shall be at Liberty to  
 repair to the Commissioner's Book for the  
 Names of the Bail, to the End that they  
 may enquire of the Sufficiency of them;  
 Plaintiff may and if they are found insufficient, they  
 except a- may except against them within twenty  
 gainst Bail Days after the said Bail is transmitted, and  
 within twen- Notice to the Plaintiff or his Attorney of  
 ty Days af- the Taking thereof: And in that Case  
 ter. the Defendant must either put in  
 better Bail, or the Cognizors of such  
 Bail must justify themselves in open  
 Court, either by Affidavit taken before  
 such Commissioner that took the said  
 Bail, or by Oath made in Court  
 or

or before one of the Judges of the said Com. Pleas Court.

Geo. Treby.  
Edw. Nevill.

John Powel.  
Tho. Rokeby.

By a Rule made Hill. 6 Georgii, It is further ordered, That all Bail-Pieces, taken within such respective Distance, as is above directed, shall be transmitted within the Time above limited, and after such Transmission, shall be forthwith deliver'd to, and filed with the proper Officer; to be entered upon Record, or otherwise it shall be as no Bail; and the Plaintiff is at Liberty to proceed on the Sheriffs Bail-Bond, as if no such Bail were ever put in. And the Defendant in Case he be admissible to plead to the original Action, shall not be admitted so to do, unless he first pay the full Costs to the Plaintiff for the Prosecution on the Bail-Bond; and plead as of the Time when the Bail should have been duly entered.

If the Defendant does not put in special Bail (when required by these Rules) you may get the Sheriff to assign over his Bond, and take out the *Capias* upon it, a Copy of which you personally serve on the Defendants.

### *Of Declarations.*

THE next Thing is to provide for the Declaration, several Forms whereof you will find at the latter End of this Treatise.

A a

If

Com. Pleas. If you arrest the Def. and cannot find his Attorney, you may deliver the Declaration to the Def. himself; or you may leave it in the Office, but it is requisite you should give the Defendant or his Attorney when you find him, Notice, that you have left such Declaration in the Office. — In Case, Upon Three Narr's you pay the Prothonotary 6s. and he will return you 1s.

Vide the late Rule 13 Geo. Regis. If the Plaintiff appeared for the Defendant.

If a Plea be left in the Office, you cannot charge Cop', Exit', but must have your Allowance from the Prothonotary upon your Signing the Record of *Nisi Prius*.

*Per Reg' Cur'*  
Hill. 9 Anne  
*Regina.*

Plaintiff  
hath till the  
End of the  
ensuing  
Term to de-  
clare.

If a Writ be returnable the first, or any other Return in any Term, the Plaintiff hath Liberty till the End of the next ensuing Term to deliver his Declaration to the Defendant's Attorney, or of leaving the same in the Office; and the Defendant's Attorney having entered his Appearance with the proper Officer, as of that Term in which the Process is returnable, and at the End of the ensuing Term or in Four Days after the End thereof, having given a Rule to declare in the proper Office, and called on the Plaintiff's Attorney, if he can be found; the Defendant at any Time in the Vacation of such ensuing Term (after the Rule for declaring is out) may sign his Non pros' for want of a Declaration, and not afterwards, and the Plaintiff shall not without Leave of the Court have any longer Time to declare in, than as aforesaid, other than the Time to be limited by the Defendant's Rule.

Term. Mich. 1<sup>o</sup> Georgij 2di Regis.

**T**O establish the Practice of this Court, up- Stat. 12<sup>o</sup> Geo.  
on the late Act of Parliament, for pre- Cap. 29.

venting frivolous and vexatious Arrests:

**I**t is Ordered, That from and after the last Day of this present Term, in all Causes where a Copy of the Process of this Court is served upon any Defendant, or Defendants, and an Appearance is entered for such Defendant, or Defendants, by the Plaintiff's Attorney, pursuant to the said Act, the Plaintiff's Attorney, in such Case, shall leave a Copy of the Declaration in the Office, and likewise give Notice thereof to the Defendant or Defendants, by delivering an English Notice, written in Secretary Hand, to such Defendant, or Defendants, or by leaving the same at the last, or most usual Place of Abode of such Defendant or Defendants, signifying the Nature of the Action, at whose Suit it is prosecuted ; and in whose Office such Declaration is left : And that, in case of special Writs, returnable the first Returns of Hillary and Trinity Terms, and the first or second Returns in Easter and Michaelmas Terms, such Defendant or Defendants should take Notice, that unless such Defendant or Defendants plead to such Action within four Days after the Appearance Day of the Return of such Writ: and in Case of a common Capias, or any other special Writ ; within the first four Days after the Appearance Day of the Return, Judgment will be entered by Default.

A a 2

Days

Com. Pleas.

But in Case of  
a common Capi-  
as, or of any spe-  
cial Writ not re-  
turnable as afore-  
said) within the  
first four Days of  
the next Term,  
Judgment will be  
enter'd by Default.

Declaration  
deemed well de-  
livered from the  
Time of such  
Notice.

And if the De-  
fendant does not  
plead in Time  
(a Rule being  
given to plead)  
the Plaintiff may  
sign Judgment.  
Notice in Wri-  
ting of execu-  
ting a Writ of  
Inquiry given to  
the Defendant,  
or left at his  
last or usual A-  
bode, sufficient.

After the last  
Day of this  
Term, the Rule  
of Trinity Term  
discharg'd.

Days of the next Term; Judgment will be  
entered against such Defendant or Defendants by  
Default.

And from the Time of giving such Notice as  
aforesaid, such Declaration shall be deemed well  
deliver'd to such Defendant or Defendants, and  
not otherwise.

And in Case such Defendant or Defendants,  
after such Notice given, do not plead by the  
Time the Rules for Pleadings are cut, the  
Plaintiff in such Case may sign his Judgment  
(a Rule to plead being first given) without any  
other or further calling for a Plea, and there-  
on give Notice of executing his Writ of Inqui-  
ry, either by delivering Notice in Writing to  
such Defendant, or Defendants, or by leaving  
the same at the last or most usual Place of A-  
bode of such Defendant, or Defendants; which  
shall be a sufficient Notice to such Defendant or  
Defendants of the Time of Executing such  
Writ of Inquiry.

And it is further Ordered, that from and  
after the last Day of this present Term,  
the Rule made the last Trinity Term, to es-  
tablish the Practice of this Court upon the said  
late Act of Parliament shall be discharg'd.

R. Eyre,  
Rob. Price,  
Alex. Denton,  
S. Cowper.

of

## Of Pleas.

BY the Course of the Court upon <sup>On a com-</sup>mon Writ, the Defendant <sup>the Defen-</sup>dant may not obliged to answer the same <sup>have an Im-</sup>Term the Writ is returnable of; but <sup>may</sup> have an Impar-<sup>lance or Time to par-<sup>lance to</sup></sup>le until the subsequent Term; in <sup>the next</sup> which Term, he must plead, before the <sup>Term.</sup> Rules to plead are out; otherwise the Plaintiff may sign Judgment, if a Plea has been demanded. But if it be a Country Cause, the Defendant may, on Application to the Court, or a Judge, obtain longer Time to plead, on his Agreeing to plead an issuable Plea, and receiving Notice of Trial, so as the Plaintiff be not delayed, but may try the Cause the next Assizes.

And though the Plaintiff has signed his Judgment after the Four Day Rule is out, the Court or a Judge will, (it being a Country-Cause) on the Defendant's Paying the Cost, set aside the Judgment, and give him a reasonable Time to plead an issuable Plea.

These Rules to plead must be entered in the Prothonotary's Office, where the Plaintiff's Attorney declares in, by the Secondary of the same Office, for which he is paid 16 d.

Com. Pleas. And note, There are two kinds of Imparances, the one General, and the other Special, as you may find hereafter amongst the Declarations.  
Of Impar-  
Iances.

After a General Imparance, the Defendant cannot plead in Abatement to the Writ, Excommunication or the like, nor any Privilege as a Privileged Man of another Court.   
*Vide Instr.*  
*Cler. 3d Part.* But many Pleas may be pleaded after a Special Imparance, which will not be allowed after the General.

If the Defendant prays a Special Imparance, he pays the Plaintiff's Attorney 2 s. for the Entry.

It is said, That when your Declaration is upon a Bond, if the Defendant's Attorney upon receiving the Declaration, do not crave that the Condition of the Bond may be entered with the Imparance, and also pay for the same ; then he is debarr'd from pleading Conditions performed at any Time after, without moving the Court, and paying 5 s. to the Judge's Box : But if he insist upon it, he need not plead till he have it.

Note, That the Defendant upon pleading any General Issue, may after a Rule given, nonsuit the Plaintiff (if he do not enter his Issue) and get Costs signed by the Prothonotary, and enter up Judgment, *Quia Quer non juxit in exitu nec ulterius Pros' est breve suum pdict, &c.*

See more of this hereafter.

Note, The Secondary gives Rules to de-<sup>Coml</sup> Pleas. clare and plead every Day for four Days after the Term; and to reply and rejoin 16 Days after.

Many Times where the Plaintiff's Action is just and right, the Attorney for the Defendant will yield to a Judgment, either by way of *Non sum Informatus*, or Confession; so that the Plaintiff will stay Execution against the Defendant until such a Time as both the Attornies shall agree upon: And this is a good Way to save the Defendant's Person and Charges.

It is done after this Manner upon the Declaration.

Somers<sup>r</sup> &c.      Armstrong p Radford,  
                        Johnson p Wayly.

non sum informatus ita quod cesseret ex-  
co usque Tert<sup>o</sup> Triu<sup>o</sup>.

p Willm Johnson.

Upon which Judgment, you may get Costs taxed by the Prothonotary.

But if the Attorney for the Defendant do plead unto the Action, then you may join Issue, and go to Trial by *Nisi prius* at the next Assizes for the County: Of which more hereafter.

But our Young Clerk's first Business being chiefly in making up Issues and Records, and entring up Judgments, we will next set down some Things concerning them.

## Of making up Issues.

*Common Pleas. Of making up Issues.*

**N**O T E, The Common Pleas use no Memorandums (as does the King's Bench) unless in Special Cases (as in a Bill against an Attorney.)

But having written the Prothonotary's Name and the Term the Issue is made up, they begin with the Declaration in Manner following:

Cooke.

Trid primo Georgii secundi Regis.

Som<sup>s</sup> s. **A.** B. nup de C. in Com p.  
dict Yeoman attach fuit  
ad respondend D. E. de plito Tige sup  
Casum &c. Et unde idem D. p F. G. Attorn<sup>d</sup>  
suum queritur Quare cum, &c. (verbatim  
as in the Declaration) Et inde p*duc* sec-  
tam, &c.

Note, In Debt, Covenant, Account,  
Annuity, Detinue and Replevin, the  
Common Pleas Form is summonitus fuit  
ad respondend; and in Case, Tres-  
pass, Trover and Ejectment, the  
Form is attachiatus fuit ad respon-  
dend, (&c.)

Having

Having written the Declaration, you must begin a new Line to enter your Issue; for observe, That the Common Pleas doth not now continue any Imparlane in their Entries, but when it is against an Attorney (though at the Bottom of their Declaration they usually give a *L. L.* to the next Term, when they deliver them to the Defendant's Attorney, as you may see amongst the Declarations).

## Non Assumpsit.

Et pdic<sup>t</sup> A. B. p H. J. Attorn<sup>d</sup> suum  
ven<sup>t</sup> & defend<sup>t</sup> vñm & injur<sup>t</sup> quando, &c.  
Et dicit quod ipse Non assumpsit super  
le modo & forma put pdic<sup>t</sup> C. supius  
dsus eum queritur Et de hoc pon<sup>t</sup> se sup  
P'riam & pdic<sup>t</sup> C. silit' Iō pcept<sup>t</sup> est Vic  
quod Venire Fac' hic a die S<sup>e</sup>c<sup>t</sup>e Trinitatis  
in tres Septimanas duodecim, &c. p  
quos, &c. Et qui nec, &c. ad Recogit, &c.  
Quia tam, &c.

*Non assumpsit*  
pleaded.

Non Cul<sup>r</sup> in Case.

Et pdic<sup>t</sup> A. p (sc.) quando, &c. dicit Non Cul.  
quod ipse in nullo est Culpabilis de p-  
missis supius ei imposuit put pdic<sup>t</sup> C. supi-  
us dsus eum queritur Et de hoc pon<sup>t</sup> se sup  
P'riam Et pdic<sup>t</sup> C. silit' Ideo pcept<sup>t</sup>  
est Vic', &c. as before.

*Note,*

Com. Pleas.

**Note.** If in Trespass, then Et dic' quod ipse in nullo est Culpabilis de Transg<sup>r</sup> pdic<sup>r</sup> put (sc. as above.)

**In Assault.****De Transg<sup>r</sup> & Insult<sup>r</sup> pdic<sup>r</sup>, sc.****Nil debet per Patriam.**

**Nil Debet.** Quando, sc. Et dicit quod ipse non debet pdic<sup>r</sup> A. B. pdic<sup>r</sup> 204. nec aliquam denar<sup>r</sup> sum in forma qua idem A. superius <sup>alij p[ro]p[ri]a no[n] bebasq[ue]</sup> Iesus enim Narravit Et de hoc p[ro]p[ri]o se sup P[ri]am Et pdic<sup>r</sup> A. sicut Ideo, sc. (ut in al.).

**Non est factum to a Bond.**

**Non est Fac-tum.** Quando, sc. Et dicit quod ipse de debito pdic<sup>r</sup> virtute script<sup>r</sup> pdic<sup>r</sup> onari non debet quia dic' quod scriptum illud non est factum suum Et de hoc, sc. (ut in al.).

**By an Executor,**

Et dic' quod scriptum pdic<sup>r</sup> non est facsum pdic<sup>r</sup> A. B. Testatoris Et de hoc p[ro]p[ri]o, sc. (ut in al.).

To

To a Bill, signed and delivered by the party, before the record is made.

*Et dic' quod ipse de debo pdic' vice  
Bill' pdic' onetari non debet Quia dic' qd  
Bill' ill' Non est factum suum. Et de hoc,  
sc.*

*And so of an Indenture Mutatis mutandis.*

See for more Issues toward the latter End, next after the Declarations.

#### How to make up the Record.

**M**ake a Margent of near an Inch broad, then near the Top of your Piece of Parchment write the *Placita* in the same small Hand you write the rest of the Record; but the Word *plita*, as also the first Word of the Plea, *Rept*, &c. makes a Record seem well.

*Plita apud Westm' coram Roberto Gyre  
Mil' & Sociis suis Justic' Dni Regis de  
Banco de Termio Sce Trinitatis Anno  
Regni Dni Georgii secundi Dei Gratia  
Magn' Brit Franc' & Hibnie Regis Fidei  
Defens', sc. primo.*

*Rollo. . . . .*

Then

Then beginning a new Line near half an Inch Distance, enter the Declaration as follows:

Som<sup>s</sup> s. B. nup de C. in Com<sup>d</sup> p.  
**A.** dicit<sup>r</sup> Gen<sup>d</sup> attach fuit ad  
 respondend<sup>r</sup> D. E. de plito Transgr<sup>r</sup> super  
 Casum, &c. Et unde idem D. p. F. G. At  
 tor<sup>r</sup> suum queritur quare cum, &c.

To the End of the Issue.

**M**aria tam, &c.  
 Note; The Common Pleas write their  
 Plists but once (except Death or  
 Change of Chief Justice, or up-  
 on an old Record) so that tis good  
 to leave an Inch betwixt the Issue  
 and Jurata, and begin the Jurata  
 within an Inch of the Issue thus:

Jurata.

Som<sup>s</sup> s. Iur int D. E. Quer' & A. B.  
 nup de C. in Com<sup>d</sup> pdic<sup>r</sup> Gen<sup>d</sup> de placito  
 Transgr<sup>r</sup> sup Casum ponitur in respēm hic  
 usque a die S̄ci Michis in tres Septianas  
 Miss Justic' Dñi Regis ad Assisas in Com<sup>d</sup>  
 pdic<sup>r</sup> capiend<sup>r</sup> assignd p form<sup>r</sup> Statut<sup>r</sup>, &c.  
 die (the Day of the Assizes) apud (the Place where

where the Assizes are held) in Comitatu' p[ro]p[ri]etatis Comitii Pleas  
 prius veni pro defectu' Jur. Et quia nullus  
 veni Jo' Vic' heat corpora, &c. Et sciend[us]  
 est quod b[ea]t[er]e inde Justic' hic in Curia isto  
 eodem termino delibaver[et] Deputat' Vic'  
 Comitatu' p[ro]p[ri]etatis in forma Juris exequend[us], &c.

Jurata upon an Issue taken by the King's  
 Attorney General, as in Quare Impedit,  
 thus:

Berks' s. Jur int' Dom[um] Regem p[ro]p[ri]etatis  
 Philippum York Attorn[um] dic' D[omi]ni Regis  
 nunc General' Querit & J. B. Clicum de  
 plito Quare impedit penitur in respectu,  
 &c. (as in others.)

If your Jurata be in London, then say.

London s. Jur, &c. (as before) ponitur  
 in respc'm hic usque (the very next  
 Day after the Sittings, if in Term; but  
 if not in Term, then to the first Return-  
 Day of the next Term) as a die Sancti Mi-  
 chis in tres Optimanas. Nisi Robertus Eyre  
 Mil Capital' Justic' D[omi]ni Regis de Banco  
 hic assign[atur] p[ro]p[ri]etatis Stat, &c. die (the Day  
 of the Sitting) \* apud Guildhal London  
 prius veni, &c.) (as before to) delibaver[et]  
 A. B. Ac (naming the Under-Sheriff's  
 Name) Deputat' Vic' London in forma  
 Juris exequend[us], &c.

\* If in Middlesex you say, Nisi, (&c.)  
 apud Westm' p[ro]p[ri]et in Magna Aula pli-  
 torum

Com. Pleas. torum vulgariter nuncupat Westminster-Hall ibm (sc.) prius vnu, sc.

When your Record is made up, and before it is sealed, you must enter your Issue on a Roll from the Prothonotary, or at least must thereon make an *Incipitur* of the Issue, and then carry the Record and the Roll to the Prothonotary, who will sign your Records upon paying him for the Issues; and if you have Occasion will give you back the Roll: Then you must carry your Record to the Clerk of the Treasury to be sealed, and you must make out Warrants of Attorney to carry with it, after this Manner, (*viz.*)

Som<sup>s</sup> s. D: E. pō lō suo F. G. Attorn suum & sus A. B. nuper de C. in Com' pō Gen<sup>d</sup> de placito Transgr<sup>r</sup> sup Casum.

Warrant of Attorney.

s. A. B. nup de C. in Com' pdict' Gen<sup>d</sup> pō lō suo H. J. Attorn suum versus D. E. de plito pdict'; and so of the rest. You must give the Warrant to the Clerk of the Warrants there, who will sign your Record; then you must give it to the Clerk of the Jurats to examine, and then to Mr. Maidstone to sign, and then to his Man to seal.

## Of Venires.

The Form of a *Venire Fac'* in Com' Banco.

**G**orgius secundus Dei Gratia Magis  
Britan' Franc' & Hibernie Rex Fidelis  
Defensor, &c. Vic' S. saltē Precipimus  
tibi quod Venire Fac' coram Justic' nōis  
apud Westm' a die S̄c̄e Trinitatis in tres  
Septimanias duodecim liberos & legales hoies  
de Corpore Com' tui quorum quilibet ha-  
beat decem Libz' Terr' Tentorum vel Red-  
dit p Annum ad minus p quos Rei veri-  
tas melius sciri poterit Et qui nec D. E.  
Quer' nec A. B. nuper de C. in Com' tuo  
Gen' \* aliqua affinitate atting ad faciend\* Note, If it  
quandam Juram' Prie inter Partes pdict be upon a  
de plito Transgr (as the Cause of Action Specialty,  
is) Quia tam idem D. who first takes Is you must put  
sue) quam pdict A. inter quos inde Conten- in alias diff'.  
to est posuer se in Juratam ille Et habeas  
ibi nota Jur' Et hoc breve Teste R. Eyre  
apud Westm' 24 die Maii anno Reg' nostri  
primo.

\* You must sign this *Venire facias* with  
the Prothonotary, and pay him 1 s. 4 d.  
and this may be done before your Re-  
cord is sealed.

Where

## Where Attorney General takes Issue.

In Quare Impedit, &c. make it thus.

Georgius, &c. (usq; sciri poterit) Et qui  
A. B. Clico null<sup>a</sup> affinitat atting<sup>a</sup> ad fac<sup>a</sup>  
quandam Jur<sup>a</sup> prie inf<sup>a</sup> Nos & pdia' J.  
de plito quare Impedit quia tam Nos  
quam pdia' J. inf<sup>a</sup> quos inde conten<sup>a</sup> est  
posuimus nos in Jur<sup>a</sup> il<sup>a</sup> Et heas ibi  
noia Jur<sup>a</sup> & hoc b<sup>a</sup> Teste R. Eyre, M<sup>a</sup>  
&c.

Note, You may move the Court in Qua-  
re Impedit on the King's Part for a Special  
Jury, viz. That the Sheriff attend the  
Prothonotary with the Book of Free-  
holders, that the Prothonotary in the Pre-  
sence of the Attorney or Solicitors of  
both Parties may name 48, from which  
either Party may abstract 12, and the  
Sheriff to impanel the remaining 24, Et  
quod null<sup>a</sup> fiat Calumpn<sup>a</sup> p defecu hundze-  
dorum, &c.

If you doubt in this Case, whether a  
sufficient Number of the Panel will ap-  
pear to make full Jury, &c. Then you  
must draw up a Warrant, or rather Pe-  
tition for a Tales in Court-Hand upon  
Parchment after this Manner, (viz.)

Verks' fl.

Philippus York Mil Attorn<sup>d</sup> Domini Regis nunc Gener<sup>l</sup> qui p eodem Domino Rege in hac parte sequitur pro Dno Rege vel Tales de Circumstantibus hic per Cur<sup>c</sup> concedi pro tria<sup>on</sup> Cris int die Dom<sup>d</sup> Regem & J. B. Clicum de plito Quare Impedit ne Jur<sup>c</sup> in hac parte capi- en<sup>d</sup> remai<sup>n</sup> p descau Jur<sup>c</sup>, &c.

Phil. York.

To this you must get the Attorney General's Hand, the Fee of which is 9 s. 8 d.

### The Form of the *Habeas Corpora*.

Gorgius secundus Dei Gratia Mag<sup>r</sup>  
B<sup>r</sup>ic<sup>r</sup> Frane & Hibnie Rex Fidei  
Deten<sup>r</sup>, &c. Vic S. latrem Precipim<sup>r</sup> tibi  
quod heas coram Justic nostris apud  
Westm a die S<sup>r</sup>ci Michis in tres septi-  
nas vel coram Justic nris ad Alias in  
Com<sup>d</sup> tuo Capiend<sup>r</sup> assignd p formam Stas-  
tut inde pvis<sup>r</sup> si die (the Day the Assizes  
are held) apud, &c. (the Place where) in  
Com<sup>d</sup> tuo prius vnu Corpza A. B. C.  
D. E. F. (naming the Jury returned on  
the Panel with their Additions sur sum<sup>d</sup>  
in Cur nra coram Justic nris apud Westm  
int D. E. Quer<sup>r</sup> & A. B. vnu de C. in Com<sup>d</sup>  
tuo Gen<sup>r</sup> Des. de plito Transgr<sup>r</sup> ad fa-  
ciend<sup>r</sup>

B b

Com. Pleas. ciens Jurata ill' Et heas ibi hac bre  
 Telle R. Cyre apud Westm 12 die Ju-  
 nii Ann reg nti primo.

This *Habeas Corpora* you may bespeak at Mr. Bulstrode's Office, which is kept at the Examiner's Office at the Rolls, or else you may fill it up your self, and carry it thither with your *Venire*, and his Clerk will examine it and sign it, and you must leave your *Venire* and Panel with him to be filed.

Next seal your *Habeas Corpus*, (which may be done before or after your Record is sealed.)

See in the King's Bench for a *Distringas* when in London or Middlesex, which will instruct you how to put your Day and Place in a *Habeas Corpora* for either of their Places (*mutatis mutandis.*)

In Prohibition either Plaintiff or Defendant may carry down the Record.

*Note*, Formerly if your Record was not tried the first Assizes, then you might make out a *Plur' Habeas Corpora* by the old one, and give the old one into the Office, who would sign your *Plur' Habeas Corpora*; and you could not in such Case fill up a new *Habeas Corpora* upon a new Panel, for then it was said to be Error; but this is altered by a late Act of Parliament; for which see before in the King's Bench. \* You may carry your old Record, or Copy, in such Case, to the Clerk of the Treasury, to be examined by the Roll, which if done in the Term-Time, will save Fees; for if it be out of Term, he will be

\* Note, If you carry in your old *Habeas Corpora*, you save 13 d.

be paid for the Keys, and for going down Com. Pleas. to *Wistminster* to examine it, &c. and he will make you a new Record (if your old one be lost) or else alter your old one, and seal it anew. The *Habeas Corpora* must be delivered to the Sheriff at the Assizes to return, and then it and the Record must be delivered to the Judge's Marshal.

## Subpœna.

The Form of a Subpœna ad Testificand<sup>o</sup>.

**G**orgius secundus Dei Gratia, &c. A. G. B. C. D. E. F. & G. H. saltem Prescipimus vobis & cuilibet v*m* firmi<sup>r</sup> insungen*m* quod omnibus aliis p*er*missis & excusatione quacunq*z* cess*m* sic in p*ro*p*ri*e p*erson*e v*er*is coram Justic*e* n*isi*s ad Assizes apud (the Place where the Assizes are held) in Com*e* S. die (the Day when the Assizes are held) p*re*t*er* futur*m* tenend*m* ad testificand*m* & veritat*m* dicend*m*. in qua*d*am Materia Controversie in Cur*n*ra** coram Justic*e* n*isi*s apud Westm*e* pend*m* indeterminat*m* int D. E. Quer & A. B. nup*er* de C. in d*e* Com*e* S. Gen*m* Def*m* de plas*cito* crange Et hoc nullatenus omittatis nec aliquis v*m* omittat sub pena cuiuslibet v*m* centum Lib*r* Teste R. Cyze (ut in a*f*.)

Com. Pleas. If in London, say, coram R. Cyre Mil  
 Capital Justic' Cur nre de Banco apud  
 Guildhall London die, &c. (the Day of  
 Sittings) ad testificand, (et.)

If in Middlesex, say, coram R. Cyre Mil  
 &c. . . . . die . . . . . apud Westm'  
 in magna Aula plitorum ibm vulgariter nun-  
 cupat Westminster-Hall, ad testificand,  
 &c.

See before in the King's Bench for a  
 Spa' ad testificand sur breve de inquir de  
 dampnis (which may serve for the Com-  
 mon Pleas mutat' mutandis.) Your Subpœ-  
 na and Tickets must be made out soon  
 enough to be served on the Witnesses to  
 attend the Trial.

### A Subpœna Ticket.

Mr. A. B.

If for London or Mid-  
 dlesex, then  
 BY Virtue of a Writ of Subpœna to  
 you directed, and herewith shewed  
 unto you, you are personally to be and  
 appear before His Majesty's Justices of  
 Assize on — next, being the —  
 Day of — at — of the  
 Clock in — noon of the same  
 Eyre Kt. mu-Day, at the Court then to be holden at  
 — to testify the

Truth according to your Knowledge, in  
 a certain Cause now depending and then  
 and there to be tried between D. E. Plain-

tiff, and A. B. Gent. Defendant in a Plea Com. Pleas. of Trespass on the Part of ——————

————— And thereof you are not to fail on Pain of one Hundred Pounds,  
Dated the —————— Day of ——————  
in the first Year of the Reign of our Sovereign Lord George the Second, by the Grace of God, of Great Brittain, France and Ireland, King, Defender of the Faith, &c. Annoque Dom. 1727.

See before in the King's Bench Precedents, for a Ticket upon a Spā ad testificandū sur l'he de Inquir de dampnis, and for Notice of Trial, and of not proceeding after Trial.

*How to make up the Rolls, and enter Judgment in the Common Pleas.*

**M**ake a Margent of an Inch, then rule your first Line about a Span from the Top of the Roll, and then enter your Declaration and Issue, or other Pleadings.

*Somſ fl.*

A. B. nup de C. in Com' p̄dia' Gen' sum' fuit ad respondend G. F. de plito quod reddit ei centum Libras, &c.) (And so on Verbatim, as in the Declaration, to the End thereof) Et inde producit Sēctam, &c. (And so consequently the rest of your

Com. Pleas. Pleadings and Issue, beginning a new Line  
 at each Plea, Replication, &c.)

Note, As to Judgments you enter only such as are had without Trial; for the Clerk of the Judgments enters the other.

These Judgments without Trial are by *Nil dicit*, *Cogit Actionem*, and *Non sum Informatus*.

And therein Note, After you have entered your Declaration (as before) then beginning a new Line, write,

*Nil dicit in Case without p Assumpſit.* Et pdic A. B. (naming the Defendant) p C. D. Attori suum venit & defendit vim & injur quando, &c. Et nihil in barram sive pclusionem Actionis pdic E. dicit p quod idem E. remanet versus pfa A. inde indefens' Ob quod idem E. dampna sua occone pmiss' suis pfa A. recuperare debeat

*Writ of Inquiry of Damages awarded.* Set quia nescitur que dampna pdic' E. sustinuit occone pmiss' ideo pcept est Vic' qd p sacram' duodecim phoz & leglium homin de Com' pdic diligent inquirat que dampna your Stamp pdic' E. sustinuit tam occone pmiss' quam is only 2 d. p misis & custag' suis p ipm' circa secta because the sua in hac parte appoi' Et inquisitione Judgment is quam inde fecit Vic' constare faciat Justic' after the Dni Regis apud Westm' a die Sancti Michaelis in tres Septianas sub sigillo, &c. & Writ of Inquiry. sigillis. &c.

\* *Assumpſit.* \* Note, If it be upon an *Assumpſit*, then you say, occone non pformacion pmissio & assumpcio instead of occone pmiss'; &c.

*Nil dicit in Trespass.*

You write as above *Verbatim*, only for  
the Words (*occōne pmiss'*) you must say (*oc-  
cōne transgr' pdict.*)

**In Assault.**

If in Assault, then (*occōne transgr' & ins-  
ult pdict'*) If in Assault and Imprisonment,  
(*occōne transgr' insult & imprisonmenti,  
pdict.*)

**In Covenant.**

Ut supra usq; —— Ob quod idem E.  
dampnū sua occōne frāctionis Conventionis  
pdict̄ h̄sus pfat A. recuperare debeat sed quia  
nescitur, &c. (ut p̄t' antea.)

*Nil dicit in Debt.*

Ut supra —— remain h̄sus pfat A. Here set  
inde indefens' Iō considerati est quod pdict down the  
E. recuperet versus pfat A. Debm sui p̄ Day Judg-  
dict & Dampna sua occōne detencionis De-  
bi ill ad quadraginta Solidos eidem quer  
er assensu suo p̄ Cur hic adjudicat Et  
pdict' A. in mia, &c.

Nil dicit in Ejectment.

Ut supra usque ——— indefens' Jo  
consideratum est quod pdic' E. recuperet &  
sus p̄fāt A. Tēminid sui pdic' de & in  
Manerio & Tenementis pdic' (according  
to the Parcels in the Declaration) cum p̄  
rin adhuc ventur & dampna sua occōne trans-  
gr & Ejecōnis ill' Het quia nescitur que  
dampna pdic' A. sustinuit occasione tūlgr  
& Ejecōnis pdic' p̄cept est Vic' quod p  
Saccam' duodecim pbozum & leḡium hominid  
de Com' suo pdic' diligent inquirat que  
dampna pdic' E. sustinuit tam occasione  
transgr & Ejecōnis pdic' quam p misis  
& custag' suis per ipsum circa sectam suam  
in hac parte appositis Et Inquisitionem  
quam, &c. Vic' constare fac' hic a die  
Sandi Michis in tres Septimanias sub si-  
gillo, &c. Et sigillis, &c. Idem dies dat  
est p̄fāt E. (naming the Plaintiff) hic, &c.  
Et sup hoc idem E. pet' breve Domini Res-  
gis Vic' Com' pdic' dirigend de habere  
faciend ei possessionem Terminii sui pdic'  
adhuc ventur de & in Manerio & Tene-  
mentis pdic' cum p̄rin Et ei concedit re-  
conzabile hic ad p̄fāt Terminum, &c.

A Writ of  
Inquiry a-  
warded.

A Writ of  
Possession a-  
warded.

See for the Writ of Possession after.

Nil

Nil dicit cum remitt' Dampn'.

If your Judgment be with a remittit  
dampna, then after the Words inde inde-  
fens', add Iō cons' est quod pdict E. re-  
cupet & lus psat A. termini sui pdict de  
& in Manerio & Tenentis pdict cum priu ad-  
huc ventur & dampna sua occone Transgr  
& Ejectione firme pdict sibi adjudicari, &c.  
Et superinde pdict' E. gratis hic in Cur' fate-  
tur se ulterius nolle pse qui & lus psat A.  
p aliquibus dampnis ei occone Transgr &  
Ejectione pdict' adjudicand' let omnia humani  
dampna ei sic adjudicand' gratis hic in Cur'  
remittit & relaxat Iō pdict A. de eisdem  
dampnis sit quiet Et eat inde sine die, &c.  
Et super hoc pdict E. per breve Domini  
Regis Vic' Com' pdict dirigend' de habe-  
re faciend' ei possessionem termini pdict de  
& in Manerio & Tenementis pdict cum p-  
tin' adhuc ventur Et ei conceditur reto-  
nabile hic a die S'ci Michis in tres Sept,  
&c.

\* The Act of Parliament 5 & 6 W. &  
M. says, 6 s. 8 d. shall be paid upon sign-  
ing Judgment to the proper Officer,  
who signeth the same in full Satisfaction  
of the Capiatur Fine, and all Fees due  
for or concerning the same. Which said  
Officer shall make an Increase to the  
Plain-

Com. Pleas. Plaintiff of so much in his Costs to be taxed against the Defendant.

## Cogn' Action'.

Et pdic' A. p B. Attornū suum venit & Defend. vim & injur' quando, &c. Et dic' quod ipse non potest dedicere Action' p' sed C. pdic' nec quin ipse debet eidem C. pdic' 1. (if upon Bond then say, Et dic' quod ipse non potest dedicere quin scriptum obligatorium pdic' est factum ipsius A. nec quin ipse debet eidem C. pdic' 1.) modo & forma p'ut pdic' C. supius & lus eum narrabit Iō cons' est quod pdic' C. recuperet Sign' die — lus p'sat' A. de hum suum pdic' & dampna An. Dom. sua occōne detentionis debi il' ad \* 40 s. Reg.— 6 d. eidem C. er assensu suo per Cur' hic Mia'. adjudicat Et pdic' A. in Mia', &c.

\* Note, The Common Costs are 40 s. unless it be by Original, and then usually 50 or 60 s.

Note, That upon a Judgment by Warrant of Attorney, there is no Need of an Original, if the Plaintiff have a Release of Errors.

If the Defendant hath pleaded per mis-  
nas or per dures to the Parr', and the Plaintiff replies quod fuit sui juris ad largum, and Issue thereon; and after this the Defendant is minded to confess the Action, then enter it thus:

Ad quem diem veni partes pdict p At.  
 Atorū suos pdict Et sup hoc pdict A. re Relicta veri-  
 licita significacione sua pdict p ipsum supius ficatione  
 Cogn' Ac-  
 ptens' dic quod ipse non potest dedicere con'.  
 actionem pdici' C. pdict' nec quin ipse tem-  
 pore confection' scripti pdict' fuit sui jus-  
 ris ad largum Et scriptum illud ex mera  
 & spontanea voluntate sua pfat C. fecit &  
 non ob metu minarum pat ipse pdict' A.  
 interius allegavit Ideo cons' est quod pdici'  
 C. recuperet, &c. (ut antea.)

If after Non est factum pleaded, then  
 say, as next before usq; nec quin scriptum  
 pdict' sit factum ipsius A. nec quin ipse des-  
 bet pfat C. pdici' i o l. modo & forma pat  
 pdic' C. supius vers' eum queritur Ideo,  
 &c. (ut supra.)

### *Non sum Informatus in Case.*

Et pdict' A. B. per C. D. Atorū suum  
 veni & defend vim & injur quando, &c. Et  
 idem Atorū die quod ipse non est informd  
 per eund A. de aliquo respons' p eodem  
 A. pfat C. in loquela pdict' dand Et nis-  
 chil aliud inde dic per quod idem C. res-  
 manet vers' pfat A. inde indefens' Ob qd  
 idem C. dampna sua occasione pmis' ver-  
 sus pfat A. recuperare debeat sed quia ne-  
 scitur qz dampna pdict' C. sustinuit occo-  
 ne pmis' pcept est Wic qd p Sacram̄ duo Writ of In-  
 decim pborum & legalium hominid de Com̄quiry award-  
 pd diligent inquirat que dampna pdict C. su-  
 ed. finuit

Com. Pleas. Sustinuit tam occasione pmiss<sup>r</sup> quam pro mis-  
 sione custag' suis p ipsum circa sectam suam  
 in hac parte appoit'. Et inquisitionem quam  
 inde fecit Vic constare faciat Justiciariis  
 Domini Regis apud Westm a die Sancti Mis-  
 chis in tres se primanas sub sigillo, &c. & si-  
 gillis, &c.

## In Covenant.

Write as above usq —— Ob quod is-  
 dem C. dampna sua occasione fractionis con-  
 vention<sup>r</sup> pdict<sup>r</sup> vers<sup>r</sup> pfa<sup>r</sup> A. recuperare de-  
 beat Sed quia nescitur qz dampna idem C.  
 sustinuit occasione fractionis convention<sup>r</sup> pdic<sup>r</sup>  
 pcept<sup>r</sup> est Vic qd p sacram<sup>r</sup> duodecim pborum  
 & legalium hominum de Com pdict<sup>r</sup> diligent  
 inquire, &c. (ut antea,) occasione fractionis con-  
 vention<sup>r</sup> pdic<sup>r</sup>, (&c.)

## In Debt.

Write as first above usq —— inde ins-  
 defens<sup>r</sup> Id cons<sup>r</sup> est quod pdict<sup>r</sup> C. recuperet  
 Glus pfa<sup>r</sup> A. devitum suum pdic<sup>r</sup> & damp-  
 na sua occasione detentionis debi ill ad 40 s.  
 eidem C. ex assensu suo p Cur<sup>r</sup> hic adju-  
 dicat & pdic<sup>r</sup> A. in Mia, &c.

## In Ejectment.

Write as above usq; inde indefens' —  
 Id cons' est quod pdict C. recuperet versus  
 pfaſt A. terminum suum pdict (or posſeſſion termini sui pdict') de & in Manio  
 & Tentis pdict cum priu adhuc ventur'  
 Acetiam idem C. dampna sua occone Transgr;  
 & Ejectionis pdict recuperare debeat  
 Hec quia nescitur que dampna idem C.  
 sustinuit occone Transgr & Ejection' pdict  
 pcept est Wic, &c. (as before in Pil di-  
 cit in Ejectment.)

If you have Occasion for a Remitt  
 dampn, Enter as before by Pil di-  
 cit.

## In Trespass.

The same as first above, only for (oc-  
 cione pmiss.) you must say (occione Trans-  
 gr pdict) with a Writ of Inquiry.

## In Trespass and Assault.

You must lay —— occione Transc &  
 Insult pdict.

In

 In Trespass, Assault and Imprisonment.

— Docque Transg<sup>r</sup> Insult & Im-  
prisonament p*dict*.

See the late A*ct* of Parliament, that all Statutes of *Jeofails* shall be extended to Judgments to be entered upon Confession, *nil dicit* or *non sum Informd* in any Court of Record, and no such Judgment shall be reversed, nor any Judgment upon any Writ of Inquiry of Damages executed thereon be staid or reversed, for or by Reason of any Imperfection, Omission, Defect, Matter or Thing whatsoever, which would have been aided and cured by any of the said Statutes of *Jeofails*, in Case a Verdict of twelve Men had been given in the said A*ction* or Suit ; so as there be an Original Writ or Bill, and Warrants of Attorney duly filed, &c.

*Note*, The Plaintiff's Attorney is to file his Warrant the same Term he declares, and the Defendant's the same Term he appears, &c. See the Beginning of the fourth Part of *Instr. Cler.*

Of Docquets.

**N**OTE, In the Common Pleas, when you carry in your Rolls, you must docquet your Judgments and Entries on the

the Docquet of that Term of which they Com. Pleas.  
are entred, which is kept in the Office,  
(viz.)

Nil dicit, or Non Inform (as the Case  
is over-head thus ; •

Non Inform in Deb'to.

Mrs S. Dottin p Jones }  
Carpenter p Clarke } Rot 125.

And so for the rest, as you will see by  
the Docquet — — — — — Rot dc'o, &c.

And Note, You may search the Docquets  
to find any Judgment you have Occasion  
for ; but this is not soon found unless you  
know the Attorney's Name that entred  
it.

But if you search with the Clerk of  
the Essoins, you may easily find it ; for  
he keeps an Alphabetical Table for that  
Purpose, of the Parties Names.

Also Note, That when a Verdict is had  
at a Trial in the Country, you get the  
*Poſtea* returned from the Clerk of the Poſteas, then stamp it and carry it to the Pro-  
thonotary to sign Judgment, and tax Costs.  
After which he gives it to the Clerk of  
the Judgments, who keeps it to enter  
up the Judgment on the Roll.

## Breve de Inquir'.

Writ of Inquiry.

**G**orzius secund Dei Gratia Magne  
Britan̄ Flane & Hibernie Rex Fi-  
dei defens', &c. Vix S. salutem Cum A.  
B. nūp de E. in Com̄ tuo Yeoman Attach̄  
eset \* esendi in Cur nostra eozam Justic'  
n̄s apud Westm ad respondend C. D.  
de plito Quare cum, &c. (as in the O-  
riginal or Declaration (only instead of the  
say, Attach') Year of the King, you say, Anno Reg-  
eset per bre' ni nostri, (&c. to) Ad dampnum ipsius C.  
nostrum de Pre-  
vileg' Cur' hic  
emanan' essen-  
di, &c. ad re-  
spond' C. D. A recuperare debeat H̄et quia nescitur q  
gen' un', &c. dampna pdict' C. sustinuit occone pmiss  
As in the De- (If in Case for Words or Torts. But in  
claration. Case on Assumpsit always say, occasione  
\*(Non perfor- non pformation) pmission) & assumption)  
mation, pro-  
mission & Af- Tibi p̄cipimus qd' p Sacram' duodecim pboz  
sumption p'd.) & legalium hominum de Com̄ tuo diligent  
inquir' que dampna idem C. sustinuit et  
occone pmiss' quam p mis' & custag suis  
p ipsum circa sect̄ suā in hac parte ap-  
posit Et inquisitionem quam inde feceris  
constare fac' Justic' n̄s apud Westm (the  
Return) sub sigillo tuo & sigillis eorum p  
quorum Sacram' Inquisition ille feceris Et  
habeas ibi nōia eorum p quod Sacram' In-  
quisition ille feceris Et hoc b̄e Teste R.  
Eyre, apud Westm 12 die Junii Anno  
Regni nostri primo.

This Writ  
must be sign-  
ed by the  
Prothonota-  
ry.

You

You must give Notice of the executing  
of this Writ, after the same Manner as is  
observed before in the King's Bench.

See after in the *Special Notes*, Tit. *In-*  
*quir'*.

## Ca' Sa'.

**G**orgius Secundus Dei Gratia Magne  
Britan̄ Franc̄ & Hibernie Rex Fidei  
Defens̄, &c. Vix S. salutem Precipimus  
tibi quod capias A. B. nup de C. in Com̄  
tuo Yeoman si invent' fuerit in Balkia tua  
Et eum salvo custod̄ ita quod habeas corpus  
eius coram Justic̄ nostris apud Westm̄ (the  
Return) Ad satisfaciend̄ C. D. de decem li-  
bris & novem solid̄ qui eidem D. in eadem  
Cur̄ nostra coram Justic̄ nostris apud West-  
mon̄ [if in Case say, Adjudicat' fuer' pro  
dampnis suis que sustinuit occ'one cuiusda'  
Transgr' super Casum eid' C. per prefat' A.  
apud E. in Com̄ tuo fact' & illat' unde, (et.)]  
Adjudicat' fuer' pro dampnis suis que habuit  
occ'one quarundam pmission' & assump̄ion' Promis'.  
eidem D. p pfat' A. apud E. in Com̄ tuo  
fact' non pformat' unde convict' est Et habeas  
ibi hoc b̄b̄ Teste R. Eyre, (et.) (ut in al.)

## If in Covenant.

Say as before, and after the Words pro  
dampnis suis que habuit, say occasione cu-  
sudam conveñōd inter eos fact secund vim  
formam & effectum quarundam Indentur (or  
quozundam articulozum, as the Case is)  
inter eos confess' frāc' unde convic' est Et  
habeas, &c. ut in al.)

## Ca' Sa' in Debito.

(Memorand' the alias dict'.)

*Sign' 4 d.*

Ad satisfaciēnd C. D. tam de quodam  
debito viginti libr' quod idem C. D. in Cur  
nostra coram Justis nostris apud Westm res-  
cupavit versus eum quam de quadraginta

\* 43 s. Com- solid \* qui eidem C. D. in eadem Cur nostra  
mon Costs, if adjudicat fuer p dampnis suis que habuit  
by Orig. 50 occōne detenōd debiti ill unde convic'  
or 60 s. when Judgment by est Et habeas ibi hoc b̄d Teste, &c. (ut  
Confession. in al.)

Testatum

Testatum Ca' Sa<sup>2</sup>.

Write as before in the other Ca' Sa<sup>2</sup> sign<sup>2</sup> 8 d.  
 only directing to another County, and  
 making a new Return) unde convic<sup>2</sup> est Et  
 unde Vic<sup>r</sup> nostr<sup>r</sup> S. mans<sup>t</sup> Justic<sup>e</sup> nostris apud\* The Re-  
 Westm<sup>d</sup> (in Crō \* Ascension Domini) ult turn in the  
 pterit quod pdict A. B. non est invent in First Ca' Sa<sup>2</sup>,  
 Balkia sua cum testatum sit in eadem Cur upon which  
 nostra quod laic vagat & discurr in Com the Testat. is  
 tuo Et habeas, (sc.) Teste, (sc.) grounded.  
 But note, The  
 Return of  
 the First Ca' sa<sup>2</sup> is not now set out in the rest, but instead  
 thereof say (Ad certum diem jam praeerit.)

Ca' Sa<sup>2</sup> in Trespass and Assault.

Ad satisfaciens C. D. de decēm libzis que  
 eidem D. in Cur nostra coram Justic<sup>e</sup> nostris  
 apud Westm<sup>d</sup> adjudicat fuer<sup>r</sup> pro dampnis  
 suis que sustinuit occasione quarund<sup>m</sup> Trans-  
 gres. & insult in ipsum C. D. p<sup>r</sup> psat A. Vi  
 & Armis ac contra pacem nostram apud  
 B. in Com<sup>d</sup> tuo fac<sup>r</sup> Unde convic<sup>2</sup> est Et has-  
 beas ibi hoc breve Teste, sc. (ut in al.)

## Upon a Nonsuit in Case.

Ad satisfaciend A. B. nuper de, (sc.)  
 Gen de centum solidis qui eidem A. B. in  
 Cur nostra coram Justie nostris apud West-  
 moni p discretionem eozundem Justie nostrozid  
 adjudicat fuer p mis & custag suis que susti-  
 nuit in quodam placito Transgrel. sup Casid  
 p pfat C. D. versus eundem A. B. in eadem  
 Cur nostra impetrat secundum formam Sta-  
 tuti inde edic & probis erga partes Quer  
 que brevia sua in hujusmodi placitis non  
 pross aut in eisdem preclus forent unde  
 convic est Et habeas ibi hoc breve Teste,  
 sc. (ut in al.)

## Simile in Debito.

Ad satisfaciend A. B. nuper de, (sc.)  
 Gen de centum solidis qui eidem A. in Cu-  
 ria nostra coram Justie nostris apud West-  
 moni p discretionem eozundem Justie iuxta  
 formam Statuti inde edic & pvis adjudicat  
 fuer p mis & custag suis que sustinuit p  
 eo quod pdic C. D. non est psecut breve  
 suum p eundem C. in quodam placito debiti  
 super demand 40 l. versus pfat A. in Cu-  
 ria nostra impetrat unde convic est Et  
 habeas, sc. (ut in al.)

Upon

Upon the Plaintiff's Nonsuit at the Assizes.

As next before usq — pro mis<sup>r</sup> & custag<sup>r</sup> suis que sustinuit p falso clamore pdic<sup>r</sup> C. in quodam placito debiti super demand<sup>r</sup>  
 40 l. p eundem C. versus pfat A. in Curia nostra prosecut<sup>r</sup> Unde convict<sup>r</sup> est Et habeas, &c. (ut in af.)

Upon a Nonsuit in Ejectment.

Say as before in debo usq — pro miss & custag<sup>r</sup> suis que sustinuit pro eo quod pdic<sup>r</sup> C. non est prosecut<sup>r</sup> breve suum in quodam placito Transgres. & Exec<sup>r</sup> firme per eundem C. versus pfat A. in Curia nostra predic<sup>r</sup> impetrat Unde convict<sup>r</sup> est Et habeas, &c. (ut in af.)

Upon a Nonsuit in Trespass.

As next before, only say, que sustinuit eo quod pdic<sup>r</sup> C. non est prosecut<sup>r</sup> breve suum in quodam placito Transgres. p ipsum C. &c. (ut in af.)

Ca' Sa' against an Executor de Bonis propr'  
upon a Devastavit returned by the  
Sheriff.

The Return Westm\* — Salutem Precipimus tibi qd capias E. F.  
Executorem testamenti A. B. si invent fuer' in Balliva tua & eum salvo custod ita quod  
habeas corpus ejus coram Justic nostris apud  
Westm\* — Ad satisfac C. D. tam de  
quodam debito 30 lib. quod idem C. in Curia  
nostra coram Justic nostris apud Westm —  
recuperavit versus eum quam de 30 s.  
& sex denar' qui eidem C. in eadem Curia  
nostra adjudicat fuer' pro dampni suis que ha-  
buit occione detencionis debi illi unde convict' est  
Et unde cons' est in eademi Curia nostra  
quod pdic' C. habeat Executionem versus  
psaf E. F. Executorem de debito & dampnus  
pdic' de bonis & catallis ipsius E. F. ppr' le-  
vando Co quod pdic' A. B. diversa bona & ca-  
talla que fuer' psaf A. B. Testatoris tempore  
mortis sue ad valentiam debiti & dampnorum  
predict' que ad manus predic' E. F. post  
mortem predict' A. B. administrando deve-  
ner' Devastabit & in usum suum ppr' con-  
vertit & dispoluit prout tu ipse Justic  
nostris apud Westm (such a Return) ult  
perit mandat Et habeas ibi hoc breve Teste,  
sc. (ut in al.)

Note, That upon a Judgment against an Executor or Administrator, a **Cd** **Sd** ought not to issue out, but a **Fd** **Fa** de Bonis Testatoris; except a Devastabit be returned, and then a **Cd** **Sd** lies against the Body, or a **Fd** **Fa** against their Goods.

**Ca' Sa' post Sci' Fac' upon Defendant's Default.**

— Unde convict' est Et unde cons' est in eadem Curia nostra quod pdic' quer' heat Execution versus pfat Def. de debito & dampnū pdic' p defalt ipsius D. Et habeas, &c. Vide postea **Fd** **Fa** & **Sd** **Fa**.

Fi' Fa'.

*Fieri Facias in Case sur Promiss' non performat'.*

**G**orgius Secundus Dei Grā Magiū stamp tre-  
Britānī Frānc & Hibernie Rex Fidei ble 6 d.  
Defens, &c. Uic S. saltem Precipimus tibi This Writ  
quod de bonis & catallis A. B. nup de, (sc.) must be sign-  
in Walliva tua Fieri Fac decem libras que Prothonota-  
ry's Office,  
where the Declaration is filed, for which you pay 4 d. and  
sealed at the Seal-Office 7 d. Warrant 2 s. 4 d.

Com. Pleas. C. D. in Curia nostra coram Justic nostris  
 apud Westm \* adjudicat fuer<sup>r</sup> p dampnis  
 \* Alit' in cas suis que habuit occōne quarundam pmissionē  
 (adjudicat') & assumpcionē eidem C. p psal A. apud E.  
 fuer<sup>r</sup> pro dampn-in Com tuo fac' non pformat Et denar ille  
 suis suis que habeas coram Justic nostris apud Westm in  
 sustinuit occō- Cio Sancte Trin ad reddend psal C. de  
 ne cuiusdam dampnū pōta' unde convict' est Et habeas ibi  
 Transgr' super Cas' eidem C. hoc breve Teste, &c.

per prefat' A.

apud E. in Com' tuo fact' & illat'. Unde convict' est & denar' ill  
 habeas, &c. (ut in al'.)

### For Words.

Occōne dicōnis & ppalationis quoquandam  
 perbozum scandalosorum p pdic A. de ps-  
 sal C. apud C. in Com' tuo Et denar, (&c.)

### In Covenant.

Say as before usq—— p dampnis  
 suis que huit occasione cuiusdam conveniōn  
 int pdic' A. & psal C. fact' secundum vim  
 formam & effectum quoquandam Articulorum  
 [or] quarundam Indentur, &c. as the Case  
 is] inter eos confect' frag' Et denar ille ha-  
 beas, (ut antea.)

### In Debt.

Gorgius, &c. (ut antea) — Precipi-  
 G mus tibi quod de bonis & catallis A. B.  
 nup

nup de E. in Com<sup>d</sup> tuo Gen<sup>d</sup> \* in Balsa Com. Pleas.  
 tua Fieri Fac tam quoddam debitum 40 l.   
 qd C. D. in Cur<sup>r</sup> nostra cozam Justic nostris Alias dict<sup>r</sup>,  
 apud Westm recuperavit versus eum quam &c. if upon  
 40 s. qui eid C. in eadem Curia nostra adjus<sup>r</sup> a Specialty.  
 dicat fuer<sup>r</sup> p dampn<sup>r</sup> suis que huit occone des-  
 penonis debi ill<sup>r</sup> Et denar ill<sup>r</sup> heas, (sc.)  
 (ut in al<sup>r</sup>) — ad reddend<sup>r</sup> pfa<sup>r</sup> C. de debo  
 & dampn<sup>r</sup> po unde convia<sup>r</sup> est Et heas, sc.

## In Ejectment for Damages.

**G**orgius, sc. — Fieri Factas  
 10 l. que C. D. in Cur<sup>r</sup> nostra cozam  
 Justic nostris apud Westm adjudicat fuer<sup>r</sup>  
 p dampn<sup>r</sup> suis que sustinuit occone cuiusdam  
 Transgr & Ejection firme pfa<sup>r</sup> C. p p*dict*  
 A. vi & armis & contra pacem nostram apud  
 E. in Com<sup>d</sup> tuo illat Et denar ill<sup>r</sup> habeas,  
 sc. (ut antea in Case.)

## In Replevin.

Occone cap<sup>r</sup>onis & iuste detentio<sup>r</sup> As-  
 verior<sup>r</sup> ipsius (Quer) apud E. in quod loco  
 voc<sup>r</sup> G. unde convict<sup>r</sup> est Et habeas ibi, sc.

## In Trespass.

— Occone cuiusdam Transgr eid<sup>r</sup>  
 C. p pfa<sup>r</sup> A. vi & armis ac contra pacem no-  
 stram apud E. in Com<sup>d</sup> tuo illat Et denar,  
 (sc.) de dampnis, (sc.)

Georgius,

Com. Pleas,

The Tre-  
spafs, where  
several Da-  
mages are  
recovered a-  
gainst two  
Defendants.

**G**orgius, &c. — saltem Precipimus  
tibi quod de bonis & catallis C. D. nup  
de G. in Com' tuo Peoman in ballia tua  
fieri fac' Duatuor Libr' p dampnis que  
A. B. sustinuit occasione cuiusdam transgr' ei-  
dem A. p pdict' C. illat necnon de bonis  
& Catallis E. F. nup de eadem in Com'  
tuo Peoman in ballia tua Fieri Fac' sera-  
gint solid' p dampnis pdict' A. que sustinuit  
occasione cuiusdem Transgr' eidem A. p pdict' E.  
illat necnon de bonis & Catallis eo-  
rundem C. & E. in ballia tua Fieri Fac'  
decem libr' p missis & Custag' suis p ip-  
sum circa sectam suam in hac parte appoit'  
denar' ille heas coram Justic' nris apud  
Westm' (the Return) ad reddend' psat A.  
de dampnis pdict' Unde Convicta' sunt Et  
heas, &c.

*Testar' Fieri fac' in Debt.*

\* Sheriff of  
the County  
in the first  
Writ, and  
Return  
thereof.

Write as before in a General *Fieri faci-*  
*as in Debt usque* — Convict est Et uno  
de Vic' nri S. \* mand' Justic' nris apud  
Westm' ad certum diem jam pterit' quod  
pdict' A. nulla het bona seu Catalla in  
Ballia sua unde Debum et dampnum po-  
aut aliquam inde parcell' Fieri seu levare  
facere potuer' cum Testatio sit in eadem  
Cur' nra quod idem A. satis het de Bo-  
nis & Catallis in Com' tuo unde Debum  
& Dampna pdict' fieri & levare facere pos-  
sunt Et heas ibi hoc breve Teste, &c.

*Fieri*

## Fieri fac' against an Administrator.

precipimus tibi quod de Bonis & Catal-  
lis que fuer R. G. qui obiit intestat ut  
dicitur tempore mortis sue in manibus A.  
G. Vid Administrat Bonorum & Cata-  
lorum que fuer' ejusdem R. existent in And so of an  
Wallia tua Fieri fac' tam quoddam De- Administra-  
tum: i o l. quod J. S. Gen in Cur nca tor mutatis  
coram Justic' nciis apud Westm' recuperand'.  
vit hys eam quam Vigint' denar' qui ei-  
dem J. in eadem Cur nostra adjudicat sus-  
er p dampnis suis que huit occasione deten-  
tion Debi ill' si eadem A. tanta bona &  
catalla que fuer' pdic' R. tempore mortis  
sue in manibus suis administrans habeat  
Et si non heat tunc dampnus pdic' de  
bonis & catallis pdic' A. ppr' levand Et  
denar' sc. (ut in al').

Note, If any Executor plead ne Unques  
Executor, and it be found for the Plaintiff,  
the *Fieri fac'* shall be de Bonis propriis:  
But if he plead plene Administravit, and  
it be found for the Plaintiff, then the *Fi-  
eri fac'* shall be of the Goods of the Te-  
stator; and if the Executor has sold the  
Testator's Goods, and taken Money or  
other Goods for the same, then he is,  
'tis said, upon the *Fi' Fa'* to take other  
Goods of the Executor's to the Value of  
the Goods sold. 14 H, 4 Fitz. Ret. 55.  
See after upon a *Devastavit* returned.

Also

Com. Pleas.

Also for a further Satisfaction of Execution, &c. upon all Manner of Writs; see Dalton's Office of Sheriffs last published, the Compleat Sheriff, Retorna Breveum, W. Greenwood revised by Wilkinson, &c.

*Fieri fac' versus Executor' in Covenant.*

— Precipimus tibi quod de bonis & catallis J. B. (sc.) in manibus W. B. & R. B. Executor' Testimenti ejusdem J. B. in Walliva tua existet Fieri Fac' tam Centum Libras quas A. M. in Cur' nostra coram, (sc.) apud Westm' adjudicat fuer' p dampnis suis que huit occasione fractionis custosdam Conventionis int' pfat' J. B. defunct' & pfac' A. fact' quam quinque tarcas que eidem A. in eadem Cur' nostra adjudicat fuer' p misis & custag' suis p ipsum circa sectam suam in hac parte appoit' si idem W. B. & R. B. tanta bona & catalla que fuer' J. B. tempore mortis sue in manibus suis administrando habeant Et si non habeant tunc dampnū pdic' p mis' & custag' suis de bonis & catallis ipsorum dict' W. B. & R. B. ppr' levando Et denar' ill', sc. (ut in al').

*Fieri Fac' per Defalt' after Nichil returned on Scire Fac' post annum & diem.*

— Unde Convict' est Et unde const' est in eadem Cur' nra coram Justic' nriz' apud

apud Westm' quod pdic' W. habeat execu: Com. Pleas.  
tionem versus psal' C. p ipsius T. defalt Et ~~habeas~~  
habeas, Ec.

Fieri Fac' de Bonis propriis post Devastavit re-  
torn' per Inquisitionem.

Georgius, (Ec.) salte Precipimus tibi qd' See after.  
de boni & catall' J. S. Executor' Testi' T. S.  
in Balliva tua Fieri Fac' tam quoddam  
debitum Centum & Sexaginta Librarum  
quod W. A. Ar in Cur' nostra coram Justic'ie  
nostris apud Westm' recuperavit versus psal' T.  
in vita sua quam Sexaginta solidi qui  
eidem W. in Curia nostra adjudicat fuer' pro  
dampnis suis que habuit occasione detencio: debiti ill' Et denat ill' habeas coram Justic'ie  
nostris apud Westm' in Octabi Scd' Hill ad  
reddend' psal' W. de debito & dampno pdic'  
Unde pdic' E. in vita sua convic' fuit Et  
unde cons' est in eadem Cur' nostra coram  
Justic'ie nostris apud Westm' quod pdic' W.  
habeat execu: versus psal' J. de debito &  
dampno pdic' de bonis & catallis pdic' J. p-  
ris levand' p ipsius J. defalt eo quod p-  
dic' J. diverla bona & catalla qz fuer' p-  
dic' T. tempore mortis sue in manibus  
suis administrando ad valenc' debiti & dampno-  
rum pdic' vendidit & ad usum ppr' con-  
vertit & disposuit puc p quandam Inquisi-  
tio: indentat coram te apud, — Ec.

— die — ult pterit p Saccand  
proborum & legalium hominum de Ballia  
tua cap' (a die Scd' Martini in quindecim  
dies)

Com. Pleas. dies) ult pteris retornat coram psat Justie nostris apud Westmon de Recordo remanend plenius liquet & apparet Et habeas ibi hoc breve Teste, &c.

## Elegit de debito.

**G**orgius, (sc.) Vic S. salutem Cum A. B. nup in Curia nostra coram Justie nostris apud Westmon p cons' ejusdem Cur recuperasset versus C. D. nuper de, (sc.) fam quoddam debitum ducentarum librarum quam cent' Solidi qui eidem A. in eadem Curia nostra adjudicat fuer' pro dampnis suis que habuit occasione deten' debiti ill' unde convict' est idem A. postea vel in eadem Curia nostra Et p Statu' inde p'vis' Elegit sibi liberari omnia bona & catalla pdict' C. pter Boves & Assros de Caruca sua & silit medietat omnium terrarum & Tenementorum suorum in Balliva tua tenend sibi bona & catalla pdict' ut bona & catalla sua propz' ac etiam tenend medietat pdict' ut liberum Tenementum suum sibi & assign' suis iuxta formam Statuti pdict' quoisque debitum & dampna pdict' inde levaverit Et ideo tibi p'cipimus quod omnia bona & catalla pdict' C. pter Boves & Assros de Caruca sua Et silit medietat omnium Terrarum & Tenementorum suorum in Balliva tua de quibus idem C. in C'io Hancie Trii anno Regni nostri septimo quo die Iudicium inde reddit' sicut vel unquam posse sicut leisit psat A. sine dilione liberari fac  
per

per rationab<sup>m</sup> ptiū & exten<sup>t</sup> tenend<sup>m</sup> sibi bon<sup>m</sup> & Com. Pleas.  
 catal pō ut bon<sup>m</sup> & catal sua ppria Ac etiam ~~l~~  
 tenend<sup>m</sup> medietat pō ut lib<sup>m</sup> Tenementū su-  
 um sibi & Assign<sup>m</sup> suis iuris formam Stat-  
 tuti pdic<sup>t</sup> quousque debiū & dampna p-  
 dic<sup>t</sup> inde levaverit Et qualit<sup>t</sup> hoc pcept<sup>t</sup>  
 nostrum fueris execut<sup>t</sup> constare fac Justic<sup>e</sup>  
 nostris apud Westmon<sup>m</sup> a die Scti Michis  
 in tres septimanas sub sigillo tuo & sis-  
 gillis eorum p quorum Sacram<sup>t</sup> extent<sup>t</sup> &  
 appreciationem ill<sup>t</sup> feceris Et habeas ibi hoc  
 breve Teste R. Eyre, &c.

## Elegit for Damages in Trespass.

Georgius, &c. cum A. B. nup in Curia nostra coram, (&c.) per cons<sup>t</sup> ejusdem Curie  
 habeat versus C. & D. nuper de, (&c.) exe-  
 cutionem de viginti Libris que eidem A. in  
 eadem Curia nostra adjudicat fuer<sup>t</sup> p dampnū  
 suis que sustinuit occōne cuiusdam Transg<sup>t</sup>  
 eidem A. p p<sup>r</sup>fat C. vi & armis ac contra  
 Pacem nostram apud E. in Com<sup>m</sup> tuo il-  
 lat unde convict<sup>t</sup> est Idem A. postea ve*n*d<sup>t</sup>  
 in eadem Curia nostra, (&c. ut antea usque)  
 quousque damna pdic<sup>t</sup> inde levaverit Ideo ti-  
 bi p<sup>c</sup>ipimus quod omnia bona & catalla que  
 fuer<sup>t</sup> pdic<sup>t</sup> C. (tali die) — ult pte<sup>r</sup>it quo  
 die pdic<sup>t</sup> A. execu<sup>t</sup>ōn<sup>t</sup> Judicij pdic<sup>t</sup> prius est  
 assecut<sup>t</sup> Si silit medietat omnium Terrarum  
 & Tenementorum de quibus idem C. sive ali-  
 qua persona sive plone ad usum ipsius C. (tali  
 die) vel unquam postea seisi<sup>t</sup> fuer<sup>t</sup> p<sup>r</sup>fat A. si-  
 ne dislone deliberari fac<sup>e</sup>, &c. (ut antea.)

Elegit

Elegit after an Elegit.

Georgius, &c. (as before, reciting the First Elegit usque) — quousque debitum & dampna pdict inde levaverit Et qualit illud pcept nostrum fores execus constare fac Justic nostris apud Westm in Octob Scd Hill ult pterit Tuque Justic nostris apud Westm ad diem ill mans quandam Inquisitione coram te apud Castrum E. (tali die) ult pterit p Sacram duodecim, (&c.) cap p quam compert existit quod pdict C. fuit seisis de Manerio, (&c.) [reciting the Return of the Inquisition] sup quo pdict A. vel in eadem Curia nra dicebat quod pd' C. tempore Judicij pdict reddit & postea huit diversa Terras & Tenementa in Comt tuo ad annum valorem quadraginta Libr' ult pd' Maneria, (&c.) in Inquisitione pd' supius specificat' Acetiam possessionat fuit de diversis bonis & catallis in Comt tuo ad valorem triginta Libr' que tu ipse extendi & appretiari ac pfas A. libari potuisti Et Ideo tibi pcpimus sicut plur tibi pcpimus quod omnia bona & catalla pdict C. pter Woves & Affros de Caruca sua & siliis medietat omnium Terrarum & Tenementorum ipsius C. in Comt tuo ultra pdict Maner in Inquisitione pdict supius spec de quibus idem C. tempore Judicij pdict reddit vel unquam postea seisis vel possessus fuit necnon Medietat Manerorum in Inquisitione pdict specificat pdict A. liberari fac p rationabile precium & extens tenent

tenens ut liberum Tenementum suū sibi & Com. Pleas.  
 assignū suis iuxta form' Statuti pdic' quousqz  
 debet & dampna pdic' inde levaberint Et  
 qualit hoc pcept' n'r'm fueris execut' constare  
 fac Justic' n'ris apud Westm —— sub si-  
 gillo tuo & sigillis eoz, sc. (as before)

## A Writ of Possession.

**G**orgius Secundus Dei Gratia Magne  
 Britan' Franc' & Hibnie Rex Fidei  
 Defens', sc. Uic' S. salutem Cum A. B. nu-  
 per in Curia nostra coram Justic' n'ris apud  
 Westm per Considerationem ejusdem Cur'  
 recuperavit Terri suū adhuc ventur' de & in  
 duobus Mescuagiis, (sc. as in the Narr) cū  
 ptiū in E. in Com' tuo versus C. D. nup de  
 F. in Com' tuo Gen' que G. H. Mil decimo  
 quinto die Junii Anno Reg' n'ri primo pfat'  
 A. dimisit habend' & occupand' Tenta pdic'  
 cum ptiū sibi & assignū suis a vicesimo primo  
 die Ian' tunc ult' pterit usqz plenū finem &  
 terminū Quinqz Annoꝝ extunc p' sequen' &  
 plenar' complend' & finiend' qui nondum pte-  
 riuit Et unde pdic' C. ipsum A. a possessione  
 sua inde expulit & amovit ac eundem A. a fir-  
 ma sua pdic' ejecit Et ideo tibi pcipimus  
 Quod pfat' A. possession' suam Termini sui  
 pdic' adhuc ventur' de & in Tenementis pdic'  
 cum ptiū sine dilatione habere fac' Et qualit  
 hoc pcept' n'r'm fueris execut' constare fac'  
 Justic' n'ris apud Westm a die S̄ci Michis  
 in tres Septuaginas Et heas ibi hoc bve T. sc. For signing  
 thereof is. 4d.

*Fieri fac<sup>r</sup>* for Costs upon a Writ of Possession.

If you add a *Fieri Fac<sup>r</sup>* for Costs, after the Return of the Writ, say, — *Principimus etiam tibi quod de terris & catallis predictis C. in Palliva tua Fieri Fac<sup>r</sup> sex Libr<sup>s</sup> & decem solidi qui eidem A. in eadem Curia nostra adjudicata fuerint pro dampnibus suis que huius occione transgredi & ejecitione predicti & denar illius heas coram Justicie nostris apud Westm ad prefat Terminum ad reddendum prefat A. pro dampnibus predictis unde convictus est Et heas ibi hoc breve Teste, &c.*

For all Sorts of Writs in the King's Bench, see *Thesaurus Brevium*, *Hansard's* and *Lilly's Entries*.

And for the Common Pleas, see *Brevia Judicialia & Officina Brevium*, *Clift's Entries*, &c.

And see after for

*Attachments*,      }      *Procedendo,*  
*Certiorari*,      }      *Scire Facias*, and  
*Habeas Corpus*,      }      *Superfedeas*.

## Attach' Privileg'.

For an Attorney of the Common Pleas.

**G**eorgius Secundus Dei Grā, &c. Vide S.  
G aliae Attach C. D. E. F. &c. si invent  
fuerint in Wallia tua Et eos salvo custoō ita  
quod habeas corpora eorum corā Justicē n'rīs  
apud Westm die — pr<sup>st</sup> post — Ad  
respondend A. B. Genūd Attorūd Cur no're  
de Banco juxta libertat & privileg ejusdem  
Cur p humōi Attorū ac aliis Ministris dc \* Note, D  
eodem Banco a tempore quo non existit me<sup>s</sup> placito Trans-  
moxia usitat & approbat in eadem de placito gres. is not  
\* translgr Et habeas ibi hoc breve L. (sc.) enough to  
hold to Baik

If the Action be bailable and the Plaintiff has made Affidavit of his Debt, then say, de plito transgr sup casum; — The Sum in the Affidavit must be endorsed on the Writ.

For the Chief Prothonotary's Clerks.

Ad respondend A. B. Genūd Clericorum  
Georgii Cook Mīl Capitalis Prothonotarii Cook:  
Cur n're de Banco juxta libertat & privileg  
ejusdem Cur p humōi Clericis & al Min'rīs  
de eod Banco a tempore quo, &c. (as above)

# Attachment.

## Second Prothonotary's Clerks.

Foley. Ad respondens A. B. uno Cleric<sup>e</sup> Thome Foley Ar secundi Prothon<sup>o</sup> Cur<sup>r</sup> n're de Banco sūxt libertat. &c.

## Third Prothonotary's Clerk.

Borrett. Ad respondens A. B. un<sup>d</sup> Cleric<sup>r</sup> Johannis Borrett Ar un<sup>d</sup> Prothonotar<sup>r</sup> Cur<sup>r</sup> n're de Banco sūxta libertat, &c.

## An Attachment against an Attorney for a Contempt.

Georgius, (&c.) Attach<sup>r</sup> A. B. un<sup>d</sup> Attorn<sup>r</sup> Cur<sup>r</sup> n're de Banco ita qd ei habeas coram Justic<sup>e</sup> n'ris apud Westm<sup>o</sup> (i<sup>th</sup> die) ad respond<sup>r</sup> Nobis de & sup hiis que ei ex parte n'r'a adiunc objicient<sup>r</sup> Et heas. (&c.)

This may serve against any other, *mutatis mutandis.*

*Certiorari pro Attorn' de Cō'i Banco.*

**G**orgius, (sc.) Majori & Aldermannis  
Vic London saltēm Precipimus  
vobis qđ omnes & singulas Causas queret &  
demand̄ verꝝ A. B. uī Attorū de Cō'i Banco  
n̄rō coram vob̄ vel aliquo v'rū levat in-  
choat & penden̄ unacū diebus levationis ea-  
rundem heatis corād Justic̄ n̄ris apud West-  
monī die Lune prox' futur ut idem Justic̄  
n̄ri vīlis causis illis facere valeant inde p̄d'  
A. B. plenar̄ Justic̄ complement̄ iuxta libertat̄  
& Privileg' p̄ humōi Attorū a tempore quo  
non extat memoria hactenus usitat̄ & appbat̄  
Et heatis, sc.

To remove a Plea into the Common  
Pleas.

**G**orgius, (sc.) Majori Aldriſſ & Vic  
London saltēm Voleū certis de Causis  
Certiorari tam de quadam Will Original' co-  
ram vobis seu aliquo v'rū levat sive affirmat̄  
verꝝ T. R. nuper de, (sc.) ad legam T. M.  
de p̄lito debiti super demand̄ Octo Librar̄  
q'm de quod Attach superinde fact' de octo libz'  
in manibus & custod̄ A. B. existent̄ Attach &  
defens̄ vobis mandamus qđ Will Original'  
p̄dict̄ & Attach p̄dict̄ adeo plene & integre cū  
omnibus ea tangend̄ put̄ coram vobis sive ali-  
quo v'rū residet quibuscunq̄ nominib̄ partes

Com. Pleas, in eisdem censent' coram Justicie n'r'is apud Westmon in Quindecim Pasch mittat una-  
civ' hoc breve Ut iudicem Justicie n'r'i ulte-  
rius inde fieri fac prout de Jure soze  
viderint &c. &c.

For an *Accedas ad Cur'*, *Recordari fac' Lo-*  
*quelam*, *Pone*, and *Writ of false Judgment*  
to remove Plaints out of inferior Courts,  
see in the *Writ before-mentioned*; and for  
the Nature of them, see *Dalton's Office*  
of a Sheriff, *Wilkinson on Greenwood* revi-  
sed, *Retorna Brevium, Terms of the Law*,  
&c. Also see after amongst the Special  
Notes, Tit. *Habeas Corpus*.

### *Habeas Corpus cum Causa ad fac<sup>3</sup> & rec<sup>3</sup>.*

**G**orgius, (sc.) Majori, (sc.) saltum  
Precipimus vobis & cuilibet b'rd qd'  
habeatis coram Justicie n'r'is apud Westmon  
———(the Return\*) Corpus C. D. in  
Prisona n'r'a sub custodi vestra detent ut dicit  
quocunq' nomine censetur in eadem unaci  
die & causa cap'cio & deten'cio ejusdem C. D.  
ad faciendo & recipiendo qd' Curia n'r'a de eo  
cons in hac parte Et habeas ibi hoc breve  
Teste, (sc.)

\* Day cer-  
tain.

Habeas Corpus to the Marshal's Court returnable immediate.

**G**orgius, &c.) Iudicibus Curie Pala- Stamp now  
*T*hi n'rei Westm & eoz' cuilibet saltēm 5 s. to Pro-  
 Precipimus vobis qd' corpus A. B. in Prison thonotary to  
 no'ra sub custod v'rā ut dicitur detent quo- sign it, 1 s.  
 cunqz nomine censeat' in eadem unacit die & 4 d. to Judge  
 causa capcon & detencōn esusdem habeatis 4 s. Sealing  
 coram Rob. Eyre, M̄l Capital Justice no'ro Allowance at  
 Cor coram J. P. M̄l und Justice no'ro'nd, the Marshal's  
 when it is returnable before another Judge] Court 4 s. 8 d.  
 de Banco apud Cameram suam situat . . . Second Cause  
 . . . . . immediate post recepcōn hu- 1 s. &c.  
 jus bvis Ad faciend & recipiend qd' idem Ju- Any Judge  
 stic' noster adiunc & ibidem de eo consid' of the Com-  
 in hac parte Et habeatis ibi hoc breve mon Pleas  
 Teste, &c. may sign it  
 and take the  
 Bail, and

Defendant need not attend with the Bail. Stamp for Bail-Piece 2 s. Judge's Clerk's Fee upon Bail 7 s. 6 d. The Marshal's Court take Two or Three Days to make their Return. Any Thing above 5 l. removes the Action.

You leave the Habeas Corpus at the Marshal's Court Office in Clifford's Inn, and after they have returned it, you carry it with the Defendant and Bail to the Judge coram quo, &c. or any other Judge. Note, Any Action above 5 l. removes the Cause. Vide the King's Bench.

Note, If the Defendant be minded to go to the Fleet, then there needs no Bail;

Com. Pleas. but if the Defendant be not actually in Prison, then he must get the Officer to return a Cepi, or else to get Spencer the Officer to come over to take him into his Custody, and make Certificate, or else actually to carry the Persons to the Prison.

*Habeas Corpus* upon a *Cepi Corpus* returned  
in Debt.

Georgius, (sc.) salutem Precipimus tibi quod habeas coram Justic no'ris apud Westmon (tali recordi) corpus A. B. quem p precept n'rum cepisti & penes te detines put tu ipse Justic n'ris apud Westmon (tali die) ult pterit' mand ad respondend E. D. de placito quod reddat ei 20 l. quas ei debet & inuste detinet ut dic. Et habeas ibi hoc breve Teste, sc.

*Simile in Transgr.*

Ad respondend C. D. de placito quare Vi & Armis clm ipsius C. apud E. fregit Et al Enormia ei inculit ad grave dampnum ipsius C. Et contra pacem nostram ut die Et heas, sc. And so in other Actions according to the Form of the Capias.

Note, That upon Bail taken of a Person in Custody, the Prisoner is not to be discharged till the Bail be assented to, or over-ruled in open Court. The Defendant being

being bailed upon a **Habeas Corpus**, the Com. Pleas.  
 Plaintiff must bring his new Original  
 within two Terms following (that Term,  
 wherein the Bail was taken to be account-  
 ed for one, unless it was taken the last  
 Day of the Term) and declare against  
 him, as the Nature of his Cause or Ac-  
 tion shall require, observing the same Me-  
 thod of getting Judgment and Execution,  
 by Way of **Nil Dicit, non sum Informd,**  
**Confession or Trial by Nisi prius**, as in  
 other Cases.

See more after in **Scire fac** of Proceed-  
 ing against the Bail.

**Note**, If a Man be taken upon a King's  
 Bench Proces, and removes himself to  
 the Fleet, you may charge him with a  
 Declaration in this Court : For the Me-  
 thod thereof *vide* the latter End of the  
 Book, the Rules made by this Court,  
 for delivering of Declarations against Pri-  
 soners, and the Preceedings thereon.

### Procedendo in the Marshal-Court.

**G**orgius, &c. **Judicibus Cur** Palatii  
 nostri Westm & eorū cuilibet salu-  
 tem Cum nup vobis p b̄d nostrum pre-  
 cepimus quod haberetis coram Robto Cyre If before an-  
 nil Capital Justic nostro de Banco apud other Judge,  
 Camera sua situat', (sc.) immediate post say, *coram A.*  
 recepcion brevis pdict' corpus A. B. in *Pri*- *Justic' nro'*  
*sона nostra sub custod v̄ia detent ut dici de Banco, Sc-*  
*tur*

Com. Pleas, tur unacum die & causa cap̄ion & deten-  
 tionē ejusdem quoque nomine idem A.  
 censeat ad faciend & recipiend quod p̄fāt  
 Capital' Justic noster de eo cons in hac  
 parte tamen certis de Causis Justiciariis  
 nostris de Banco pdict apud Westm' in  
 hac parte specialit mobeūd vobis & cuilibet  
 vrm precipimus quod in quibusunque pla-  
 citis & Querelis versus ipsum A. B. in  
 Cur nostra cozam vobis mol sive penden'  
 secundū Legem & cons Regni n̄ti Mag-  
 ne Britanī ac Cur pdict pcedatis cum  
 effectu aliquo brevi vobis nup in contrari-  
 um direc' non obstante, Teste Roberto  
 Cyre, &c.

## Aliter.

As above usque —— de eo cons in hac  
 parte quia tamen Justic nostris de Banco  
 pdic' apud Westm' satis constat quod pre-  
 dic' A. breve pdic' de habend corpus suum  
 unacum die cap̄ion & detenionē ejusdem  
 A. cozam p̄fāt Justic nostris ad diem &  
 locum pdic' iuria ienozem ejusdem brevis  
 debo modo non est p̄secut' Jo vobis preci-  
 pimus quod in omnibus & singulis Pli-  
 tis seu querelis in Cur nostra cozam vos-  
 bis seu aliquo vrm mol sive penden' se-  
 cundū Legem & cons' Regni nostri Mag-  
 ne Britanī ac Cur pdic' p̄t justum fue-  
 rit pcedatis & quilibet vestrū pcedat cum  
 effectu pdic' vrd nostro de habend corpus  
 vobis inde nup direc' in aliquo non obstat  
 Teste, &c.

## Aliter

Aliter sur Habeas corpus return' in Cur'.

**G**orgius, &c. Cum nup vobis p b*rd* n*m* precepimus quod habereis coram Justic*e* nostris apud Westm*'* die Mercurii pr*'* post quindiu*n* Sc*e*j Martini corpus A. B. in pris*ona* nostra sub custos v*y*a detene*r* ut dicebatur quocunque nomine censere*r* unacum die & causa cap*tonis* & detentionis ejusdem A. ad faciend*o* & recipiend*o* quod iud*em* Justic*e* nostri de eo cons*'* in hac parte certis tamen de causis Justic*e* nostris apud Westm*'* in hac parte movend*o* vobis precipimus Quod in omnibus & singulis Plac*it*is & Querelis in Cur*e* nostra coram vobis versus p*fat* A. B. mot*'* sive depend*o*n*d* p*cedat* cum effectu p*dict*' b*rd* de habend*o* corpus p*dict* A. vobis nup in contrarium inde direct*'* in aliquo non obstat*n*, &c.

Scire Facias General*'* post annum & diem.

**G**orgius, (&c.) V*ic* L. salt*em* Cum A. B. nup in Cur*e* nostra scilicet Termino Pasche Anno Regni nostri primo coram Roberto Eyz*e* Mil*'* & Sociis suis tunc Justic*e* nostris de Banco apud Westm*'* per Cons*'* ejusdem Cur*e* recuperasset versus C. D. nup de E. in Com*'* tuo Gen*'* als*d*ia*'* C. D. de E. in Com*'* L. Gen*'* tam quoddam debitum 80 l. quam 40 s. qui eidem A. in eadem Cur*e* nostra adjudicat*fuer*

Com. Pleas. fuer p dampnis suis que habuit occone de-  
 tenconis debi ille unde convictus est p <sup>ut</sup> p  
 Recorū & Process. inde in eadem Cur-  
 noscra coram Justicie nostris apud Westm'  
 residet liquet manifeste Execuō tamen  
 Judicij pdictū adhuc restat faciendū <sup>ut ex</sup>  
 insinuacione pdictū A. B. accepimus Et quia  
 volumus ea que in eadem Curia nostra rite  
 acta sunt debitū Execuō demandari tibi  
 precipimus quod p pbos & legles homi-  
 nes de ballia tua Scire fac placit C. D.  
 quod sit coram Justicie nostris apud Westm'  
 in Octab Sce Trinit' ostens' si quid p se  
 habeat vel dicere sciat quare pdictū A. B.  
 Execuō versus eum de debo & dampnis  
 pdictū habere non debet surta formam re-  
 cupacionis pdictū si sibi viderit expedire Et  
 habeas ibi nomina eoz p quos ei Scire fecerit  
 & hoc breve Teste Robto Eyre Mil apud  
 Westm' 12 die Junii Anno Regni nostri  
 primo.

Note, One *Scire Fac'* and *Nichil* return-  
 ed is sufficient in this Court to ground  
 a Judgment and Execution, if it be a-  
 gainst the Party himself.

After

After the Sheriff has returned the *Scire fac'*. then you must prepare an Entry of the Judgment after this Manner:

L. s. P *Recept' fuit Vic' cum A. B. nus-*  
*per in Cur' Dom' Regis nunc This Scire fac'*  
*scilicet Termino Pasche Anno Regni dict' ought to be*  
*Dñi Regis primo coram Robro Eyre entered on*  
*Mie & Sociis suis tunc Iustie ipsius the Prothono-*  
*Dñi Regis de Banco hic scilicet apud membrance,*  
*Westm' p cons' ejusdem Cur' recuperasset and Rule*  
*versus C. D. nup de E. in Com' Lincoln) given there-*  
*Gen als dict' C. D. de E. in Com' Lin- on in the*  
*coln Gen tam quoddam debitum 80 l. Margent, be-*  
*fore the*  
*quam 40 s. qui eidem A. in eadem Cur Judgment*  
*adjudicat' fuer p dampnis suis que habuit signed; or at*  
*occone detencōn debiti ill' unde convict' least Rules*  
*est put p Record & Proces' inde in ea- given with*  
*dem Cur dict' Dom' Regis nunc hic sci- the Seconda-*  
*licet apud Westm' pdic' residēn liquet*  
*manifelie Execuō tamen Judicij pdic' ads.*  
*huc restat faciend put ex insinuacione pdic'*  
*A. acceperat Rex. Et quia, sc. p pbos,*  
*sc. Scire fac' pfat' C. quod esset hic ad*  
*hunc diem scilt in Octab S'ce Trin*  
*osten's si quid, sc. quare pdic' A. Execu-*  
*tion versus eum de debito & dampnū p-*  
*dic' habere non deberet surta formam re-*  
*cuperationis pdic' si, sc. Et modo hic ad*  
*hunc diem ven' pdic' A. p T. P. Attorw*  
*sur' & obtulit se quarto die versus pfat'*  
*C. de pdic' placito Et ipse solemniter exact'*  
*non ven' Et Vic' modo mand' quod nichil*  
*habet*

Com. Pleas. habet, &c. nec est invent, &c.— Ideo  
 cons' est quod p̄dict A. habeat Execuſion  
 Glus p̄fat' C. de deb' & dampnū p̄d' p̄  
 defalt', &c.

See before for a *Fieri fac'*, after Nichil  
 returned on *Scire Fac'*, and Judgment.

### Of Scire fac' against Bail.

**H**E R E it is to be observed, That when the Plaintiff hath obtained Judgment against the Defendant, where Special Bail hath been given, the Plaintiff may either take the Defendant upon Execution, or prosecute his Bail.

The Manner of prosecuting the Bail is thus:

*First*, the Judgment being entred, he must sue forth a *Capias ad satisfaciendum* against the Defendant, directed to the Sheriff of the same County where the Action was first laid, and upon the Return thereof get the same returned *Non Hob. 196. est inventus*; then he must procure a Writ *The Scire fac' of Scire facias* against the Bail, (the Form must issue to whereof hereafter followeth) to shew of the Coun- Cause why the Plaintiff should not have ty where the Execution against them, according to *Caption was.* the Recovery or Judgment so had against the Defendant. Upon which Writ, if the Sheriff do return *Scire fec'* you need not make

make out any second Writ ; but if he re-<sup>Com. Pleas.</sup>turn *Nibil habent*, then you must make out a second Writ of *Scire facias* and get it returned ; if it be returned also *Nichil*, (yet two *Nichils* amount to a *Scire feci*) then you must give Rules upon them in the Prothonotary's Office, and file them with the *Custos Brevium*. And thereupon, if the Bail shew not Cause to the contrary, then Judgment by Default may be entred against them in the same Prothonotary's Office, for the Sum in which they became Bail : And the Plaintiff may thereupon take out Execution against them, either by *Fieri facias* or *E-legit* ; but not by *Capias ad satisfaciendum*, because it is against the Tenor of the Bail.

*Aliter.*

There is also another way of Proceeding against the Bail, and that is by Original at the Common Law, for the Sum for which they become Bail ; and thereupon arrest their Bodies either upon the *Capias*, *Alias* and *Pluries*, or sue them to Exigent thereupon, and declare upon the said Recognizance, using all Proceedings thereupon as in an Action of Debt : And the Action ought to be laid in the County of *Middlesex*, where the Records do lie, and whence the *Venire* for that Respect must arise.

And

Com. Pleas. And Note, That if the Bail cannot be arrested in Middlesex upon a Capias, &c. you may Return *Non est inventus, &c.* and thereupon sue forth a Writ of *Testatum*, and thereby arrest them in another County where they may be found, observing the like Proceedings as in an Action of Debt.

*Scire Fac'* upon a Recognizance against Bail.

**G**orgius, (sc.) Uic Midd salutem Cum A. B. nup de, (sc.) nuper in Cur' nostra scilicet primo die Febr' Anno Regni nost' primo Assumpsit super le p E. F. in 50 l. quod idem E. compareret in eadem Cur' nostra cozam Justic' nostris as pud Westmon (Here put the Return) tunc px' sequend & sic de die in diem ad quemlibet diem placit debi super demand 50 l. p quendam G. H. versus pfat' E. in ea- dem Cur' nostra prosecut' quoisque placitum illud terminetur & Judicium inde redit' fuit Et si contigerit pdic' E. pdic' placito convinci & Judicium p pfat' G. vers' eundem E. reddi pdic' E. pfat' G. de de- vito & dampnis pro eodem G. in pdic' placito versus pfat' E. recuperand vel adju- dicand satisfaceret vel quod ipse idem E. seipsum Prisone de le Fleet occasione illa redderet quam quidem sum 50 l. pdic' A. recog'd

recogid de terris & catallis suis fieri & ad Com. Pleas:  
 opus & usum pdic<sup>t</sup> G. levari si conci-  
 gerit pdic<sup>t</sup> E. in aliquo pmissorum de-  
 falk facere & inde legitimo modo convinci  
 put p Record & Process. inde in eadem  
 Cur<sup>r</sup> nostra residē liquet manifeste Ac lis-  
 cet pdic<sup>t</sup> G. postea scilicet Termino, (sc.)  
 Anno Regni nostri, (sc.) in eadem Cur<sup>r</sup>  
 nra recuperavit verlus pfa<sup>t</sup> E. pdic<sup>t</sup> s<sup>o</sup> l.  
 de debito pdic<sup>t</sup> Acetiam 39 s. 4 d. pro  
 dampnis suis occasioni debi illius prout p  
 Record & Process. inde in eadem Cur<sup>r</sup> nra  
 coram Justic<sup>r</sup> nostris apud Westm pdic<sup>t</sup>  
 filic<sup>r</sup> residen<sup>r</sup> liquet manifeste pdic<sup>t</sup> tamen  
 E. corpus suu in Exec<sup>r</sup> Judicij pdic<sup>t</sup> in  
 eadem Cur<sup>r</sup> nostra coram Justic<sup>r</sup> nostris  
 pdic<sup>t</sup> non reddidit nec idem E. pfa<sup>t</sup> G.  
 de deb<sup>r</sup> & dampnis pdic<sup>t</sup> satisfec<sup>r</sup> put ex  
 insinuacione ipsius G. accepimus Et quia  
 volumus ea que in pdic<sup>t</sup> Cur<sup>r</sup> nra coram  
 Justic<sup>r</sup> nostris pdic<sup>t</sup> rite act<sup>r</sup> & recognit<sup>r</sup>  
 sunt debit Execuc<sup>r</sup>one demandari ibi picipi-  
 mus quod p phos & legles homines de  
 Wallia tua Scire fac<sup>r</sup> pfa<sup>t</sup> A. quod sic co-  
 ram Justic<sup>r</sup> nrs apud Westm a die S<sup>r</sup>  
 Michis in tres Septiman<sup>r</sup> ostens si quid p  
 se habeat vel dicere sciatur quare pdic<sup>t</sup> s<sup>o</sup> l.  
 de dedito & 39 s. 4 d. de dampnis pdic<sup>t</sup>  
 p ipsum in forma pdic<sup>t</sup> recognit de terris  
 & catallis suis fieri & pfa<sup>t</sup> G. reddi non  
 debeant iuxta form<sup>r</sup> recogniconis pdic<sup>t</sup> si  
 sibi viderit expediri Et habeas ibi nomina  
 eorum per quos ei S<sup>r</sup> fac<sup>r</sup> Et hoc b<sup>r</sup>  
 Teste, (sc.)

Com. Pleas

Where the Bail is upon a *habeas Cor-*  
*pus*, the Attorney makes the *Scire Fas-*  
*cas* out himself.

Note, This first *Scire Fasias* is to be made out by the Filacer of the County, and if there be Occasion for a second, then the Attorney makes that out: *Teste* on the Appearance of the first, &c. and there ought to be 15 Days between the *Teste* and Return.

But see, i *Lut.* 26. As to a Plea in Abatement, that there were only 14 Days between the *Teste* and Return of a *Scire facias*. It was answered and resolved, that it was good by the Statute of 17 Car. I cap. 6. Parl. 8 and a *Respond' Ouster* was awarded.

### Scire Fac<sup>2</sup> upon a Judgment against an Executor after a Year and a Day.

ff. **G**orgius, (sc.) Uic' Terb' salutem  
**C**um A. B. nuper in Cur' nostra  
 scilicet Termino Pasche Anno Regni nostri  
 primo coram Robto Eyre Mil & Sociis suis  
 Justic' nostris de Banco apud Westm, (sc.)  
 recuperasset versus E. F. nup de (sc.)  
 Executorem Testamenti S. T. nup pdict  
 (sc.) tam quoddam debitum 20 l. de bonis  
 & catallis que fuer' pdict' S. tempore mor-  
 tis sue in manibus pdict' E. existent le-  
 van<sup>d</sup> quam 40 l. & 10 s. qui eidem A. in  
 eadem Cur' nostra adjudicat' fuer' p dampnis  
 suis occasione deten<sup>cōn</sup> debiti illius de eis-  
 dem bonis & catallis levand si pdict' E.  
 tanta bona & catalla que fuer' pdict' S.  
 tempore

tempore mortis sue in manibus suis ad- Com. Pleas.  
 ministrand habuisset & si non habuisset tunc  
 dampna p̄dicta de bonis & catallis ipsius  
 C. p̄pr' levand unde convict' est put p̄  
 Record, (sc. as last before in the other  
 manifeste) Execuō tamen Iudicij p̄dicta  
 adhuc restat faciend put ex insinuatione  
 ipsius A. accepimus Et quia volumus, sc.  
 (as before) quod p̄ probos, (sc.) osteng  
 (sc.) quare p̄dicta A. execuōnem versus  
 eum de debito & dampnis p̄dicta habens  
 non debeat si sibi viderit expediri Et ha-  
 beas ibi nomina, (sc.) Et hoc breve Te-  
 ste, (sc.)

*Scire Fac' against Tetre-Tenants, upon a  
 Judgment recovered against the Heir in  
 Debt.*

**G**eorgius, (sc.) Uic' Derb salutem Cum  
 J. K. Wit in Eur n̄a scilicet Termi-  
 no Pasche Anno regni nostri 13° coram  
 Roberto Cyze Wit & Sociis suis,) sc. as  
 before) recuperasset versus A. W. nup de  
 L. in Com. Nor' Gen fratrem & heredem  
 S. W. Armig nup dict', (sc.) tam quod-  
 dam debitum 500 l. quam 6 l. que eidem  
 (sc.) unde convict' est Execuō tamen Iudi-  
 cij p̄dicta quoad debitum p̄dictum adhuc restat  
 faciend ac p̄dicta A. mortuus est prout ex  
 insinuatione ipsius J. accepimus Et quia  
 volumus, (sc. as before) Scire fac' teneat  
 terras & tenementorum de quibus p̄dicta S.  
 obicit se situs in feodo simplici & que de-  
 scendit p̄fat' A. per descensid Hereditat ut  
 E e 2

Com. Pleas. fratri & heredi pdic' S. ut sint cozam, &c.  
 (as before) in Crastino H'le Trin ostens  
 liquid, (sc. as before) quare pdic' J. Exe-  
 cu'ōn versus eos de debito & dampnis p-  
 dia' de terris & tenement' illis levand  
 \* If it be Te- here non debeat iuxta formam Recuperas-  
 statum Scire tioneis pdic' si sibi viderit expediri \* Et  
 fac' then add, heas ibi nomina, (sc.) Et hoc breve Teste,  
 Et unde, &c. (sc.)

Et unde Vic' noster London mans Justic'  
 n's apud Westm in Octabis H'ci Michis  
 ult' pterit' quod non sunt aliqui tenentes  
 nec aliquis tenens aliquorum terrar' & tes-  
 nementorum de quibus pdic' S. obiit se-  
 sit' in feodo simplici & que descend' pfat' A.  
 p descendens Hereditar' ut fratri & heredi  
 ejusdem S. in Wallia sua quibus vel cui  
 Scire fac' potuerunt cum testat' sit in ea-  
 dem Cur' nra quod diversi sunt tenentes  
 terrar' & tenementorum de quibus pdic'  
 S. obiit se sit' in feodo simplici & que de-  
 scend' pfat' A. p descendens Hereditar' ut  
 fratri & heredi ejusdem S. in Com' tuo  
 quibus Scire fac' possis Et habeas ibi no-  
 mina, (sc.) Et hoc breve Teste, (sc.)

Supersedeas pro Attorn' de Communi Ban-  
 co implacitat' in Banco Regis.

**G**orgius, &c. Justic' n's ad Placita  
 cezam nobis tenend' assignd' ostens  
 est Rob ex parte A. B. u' Attorn' Cur  
 nre de Banco quod cum ipse communis  
 Attorn' in Banco pdic' existat & diversa ne-  
 gotia

gotia quamplur' legeorum nostrorum de Com. Pleas.  
 eodem Banco prosequend' & defendend'  
 ut eorum Actorum prosequitur & defendit  
 Idemque A. & omnes alii Actorum in Banco  
 pdic' dum sic aliqua negotia in Banco  
 pdic' prosequuntur aut defendunt sub pro-  
 tectione nostra esse debeant & essent juxta  
 libertat' & privileg' Cur' nostre de Banco  
 pdic' a tempore eiusus memoria hominum  
 non existit usitat' & approbat'. Quia tamen  
 R. T. M'is libertat' & privileg' Cur' no-  
 stre de Banco pdic' ignoscens quandam  
 Willam de quadam Transgr' p' pfat' A.  
 eidem R. ut asseritur in Com' nostro W.  
 p'petrat' coram vobis impetravit & p'secut'  
 fuit in Cur' nostre de Banco contempt' &  
 ipsius A. & Ligeoꝝ nostrorꝝ quoꝝ Actorum  
 idem A. existit dampnum non modicum  
 & gravamen ut accepimus Et ideo vo-  
 bis mandamus quod de quibuscumque Pla-  
 citis & Querelis in Cur' nostra coram vobis  
 versus pfat' A. mox seu movend' (Placitis  
 de libero Tenemento Felon) & appell' dun-  
 tarat except') supersed' omnino partibus in  
 Placitis & Querel' pdic' ex parte nostra  
 dicend' quod Plita & Querelas suas in Cur'  
 nostra coram Justie n'res de Banco p'-  
 dic' p'sequuntur si ubi viderint' expediti  
 Teste, (sc.)

Supersedeas (quia improvide) sur Habeas  
Corpus.

**G**orgius, (sc.) Vie S. salutem Cum nup tibi per breve nr̄m p̄cepimus quod haberes A. B. in Prisone nr̄d sub custod̄ tua existen̄t unacum die & causa captiōnis & detentionis ejusdem A. coram Justic̄ nr̄s apud Westm in Octab S̄cē Trin prox' futur' ad faciens & recipiens quod Cur nostra in ea parte cons̄ Quia tamen Justic̄ nostris pdict apud Westm pdict satis constat quod pdict bre de Habeas Corpus improvide emanavit Ideo tibi p̄cipimus quod pfat A. occōne pmis moles stan̄ seu de brevi pdict coram Justic̄ nr̄s apud Westm retornans aut de brevi illo aliqualit' exequend⁹ supersed⁹ omnino Tese, (sc.)

Quia breve erronice emanavit.

Cum nuper tibi p̄ bre nr̄m p̄cepimus quod caperes, (sc.) unde convict⁹ est Quia c̄imen Justic̄ nr̄s pdict satis constat quod bre nr̄m de Capē Cur nr̄d pdict minus rite & erronice emanavit Jo tibi p̄cipimus quod de pfat A. capiens seu in aliquo molestand⁹ occōne pmis supsed⁹ omnino, sc. Et si ipsum A. ea occōne & non alia ce- peris

peris tunc ipm A. ad largum ire pmit. Com. Pleas.  
cas Teste, (sc.)

## Declarations in the Common Pleas.

Cooke.

Pasch. duodecimo Georgii Regis.

Som<sup>s</sup> II. C. D. nuper de O. in Com<sup>m</sup> Declaration  
poict Gen als dict' C. D. in Debt on  
de O. in Com<sup>m</sup> S. Gen sum suit ad re a Bond.  
Ipond A. B. Gen (if at the Suit of the  
Sheriff, or late Sheriff, say, ad respond  
E. F. Armig' Vic or nup Vic Com<sup>m</sup> pred' de  
plito quod reddat' ei 100 l. quas ei debet  
& inuste detinet, sc. Et unde idem A. p  
G. H. Attor<sup>m</sup> lucd die quod cum poict C.  
primo die Maii anno Regnū Domini Regis  
nunc duodecimo apud O. p quoddam scriptum  
suum obligatorium concessisset se teneri ei-  
dem A. (if for the Sheriff, say, teneri eis  
E. adtunc Vic Com<sup>m</sup> S. poict) in poict  
centum libr' solvend eidem A. cum inde res-  
quisit' fuisset poict centum libr' eidem A. non-  
dum reddidit sed ill' ei hucusq' reddere  
contradixit ac adhuc contradic, unde dic<sup>r</sup> qd  
deteriorat est & dampnum het ad valenc  
20 l. Et inde p*due* sectam, sc. Et p*fer*  
hic in Cuc scriptum pdcm<sup>r</sup> quod debitum  
poict in forma poict testatur cusus dat<sup>r</sup>  
est die & anno supradictis, sc.

Com. Pleas.

If the Defendant be in Custody in any County-Gaol, no Notice is taken thereof. (*Vide ante : In B. R. aliter.*)

*Note, The Common Pleas, when they deliver Narr's upon Bonds, usually add the Li' Lo' thus :*

Imparlane.

Et pdic<sup>t</sup> C. p J. S. Attor<sup>n</sup> suum veit  
 & defend vim & injur Quando, sc. Et pet  
 audic<sup>t</sup> scripti Oble pdic<sup>t</sup> Et ei legitur, sc.  
 pet etiam auditum Condic<sup>n</sup> ejusdem scrip-  
 ti Et ei legitur in hec verba s. The Con-  
 dition, (C. to the End) Quibus legis &  
 auditis idem C. pet licent<sup>t</sup> inde interlo-  
 quendi hic usq<sup>t</sup> in Crō Hcē Trin<sup>t</sup> Et has-  
 bet, sc. Idem dies dat est p<sup>t</sup> A. hic,  
 sc.

But if the Plaintiff does not give the Defendant Oyer of the Bond, he may demand it and refuse to plead till he has it, but if he will neglect to crave Oyer it is his own Fault, which ought not to prejudice the Plaintiff, for the Plaintiff is not obliged to give him Oyer unless he demands it ; the Defendant may plead without Oyer of the Bond if he thinks fit. In making up the Issue by *Non est factum*, no Notice is taken of the Imparlane or Condition.

The

The Imparlace or *L<sup>i</sup> Lo<sup>o</sup>* to other  
Declarations, is only thus:

Et pdict C. p J. S. Attorn<sup>d</sup> suu<sup>m</sup> vnu<sup>m</sup> &  
defend vim & injur<sup>t</sup> quando, &c. Et pet'  
licenc<sup>e</sup> inde interloquendi hic usque in \* Crō \* First Day  
H'ce Trin<sup>d</sup> Et habet, &c. Idem dies dat est of the next  
sat' E. hic, &c.

And sometimes they only write thus:

*Ld Lō usq; Trin<sup>d</sup> Term'* or at the  
first Day of the next Term) p Chambers  
(naming the Defendant's Attorney.)

Note, If it be an Imparlace for an  
Attorney or privileged Person, it  
must be to a Day certain.

Note also, That a Special Imparlace  
is worded thus:

Et pdict C. p J. S. Attorn<sup>d</sup> suum vnu<sup>m</sup>  
Et salvis sibi omnibus advantagiis tam ad  
W<sup>r</sup> quā ad Narracionem pdict pet' li- Special Im-  
parlace. cenc<sup>e</sup> inde interloquendi, (&c.) as before.

Debt.

## Debt,

Upon an Emisset, or for Goods bought.

Si. A. B. nup de T. in Comū pdict Ĝen  
sum fuit respondend F. F. in placito quod  
reddat ei 20 l. quas ei debet & iuste de-  
tinet, sc. Et unde idem E. p G. H. At-  
tozū suum dicit quod cum pdic̄ A. (tali  
die & anno) apud D. emislet de eodem E.  
unam Equam p pdic̄ 20 l. solvend eidem  
E. cum inde requisit' fuisset pdic̄ tamen  
A. licet sepius requisit' pdic̄ 20 l. eidem E.  
nondum reddidit sed ill' ei hucusqz reddere  
contradixit & adhuc contradic unde dicit  
quod deteriorat' est & dampnum habet ad  
valenc 20 l. Et inde pouc' sectam, sc.

## Debt,

*Mutuatus*  
upon a War-  
rant of At-  
torney to  
confess a  
Judgment.

Upon a *Mutuatus*, or for Money bor-  
rowed.

(Which is commonly used upon a War-  
rant of Attorney, to confess a Judg-  
ment without a Bond.)

Cooke.

Som<sup>s</sup> s. A. B. nuper de K. in Com<sup>m</sup> p<sup>b</sup>  
 Gen<sup>m</sup> sum<sup>d</sup> fuit ad respondend<sup>b</sup> E. F. de  
 plito quod reddat ei 100 l. quas ei debet  
 & injuste detinet, &c. Et unde idem E. F.  
 p G. H. Att<sup>r</sup> suum dic<sup>r</sup> quod cum pdic<sup>r</sup> A.  
 (such a Day and Year) apud D. mutus  
 at fuisset de eodem E. pdic<sup>r</sup> 100 l. solvend<sup>b</sup>  
 eidem E. cum inde requisit<sup>r</sup> fuisset pdic<sup>r</sup>  
 tamen A. licet sepius requisit<sup>r</sup> p<sup>b</sup> 100 l. eidem  
 E. nondum reddidit sed ill<sup>e</sup> ei hucusque  
 reddere contradixit & adhuc contradicit un-  
 de dicit quod deteriorat<sup>r</sup> est & dampnum  
 habet ad valen<sup>t</sup> 20 l. Et inde pduc<sup>r</sup> Sec-  
 tam, &c.

Pon Inform<sup>m</sup> p A, B. (naming the At-  
 torney for the Defendant by the Autho-  
 rity of the Warrant.)

Then you sign Judgment with the Pro- have a Re-  
 thonotary ; Fee 3 s. Then enter up the lease of Er-  
 Judgment by Pon Inform<sup>m</sup>, &c. Vide rors.  
 antea.

## Debt.

## For Money due upon Account.

s. A. B. nuper de, (&c.) sum<sup>d</sup> fuit ad respondend<sup>b</sup> E. F. de placito quod reddat ei 50 l. quas ei debet & injuste detinet, &c. Et unde idem E. p G. H. Attor<sup>m</sup> suum dic<sup>r</sup> quod cum pdic<sup>r</sup> A. (ta<sup>r</sup> die & anno) apud

In simul com-  
 putasset.

Com. Pleas. apud C. computasset cum pſat E. de diſ  
 versis Denar summis eidem E. per pſat  
 A. ante tempus illud debit' & solubil' Et  
 sup Compō illo pdic̄t A. invent̄ fuit in  
 Arrerag' erga eundem E. in 50 l. per  
 quod Accō accrevit eidem E. ad exigend' &  
 habend' de pſat A. pdic̄t 50 l. pdic̄t tamen  
 A. licet sepius requisit' pdic̄t 50 l. eidem  
 E. nondum reddidit set ille ei hucusq' red-  
 dere contradixit & adhuc contradic̄t unde di-  
 cit quod deteriorat est & dampnum habet ad  
 valenc' 30 l. Et inde pdic̄t sectam, &c.

### In Case sur Assumpſt.

Upon a *Mutuatus* for Money lent and  
 delivered.

A. B. nup, (&c.) attach fuit ad respond  
 C. D. de plito transgr̄ sup casum Et uns  
 de idem C. p E. F. Attorn̄ suum queri-  
 tur quare cum pdic̄t A. decimo quinto die  
 Junii anno Regni Dom̄ Georgii Secundi  
 nunc Regis Magn' Brit, &c. primo apud G.  
 in consideratione quod idem C. ad ſpecial  
 instant' & requiſition' p̄d A. ex mutuo dedi-  
 fet & delibasset pdic̄t A. quinque Libr' lega-  
 lis monete Mag' Brit sup le aſſumpt' & ei-  
 dem C. adtunc & ibm fidelic' pmisi qd ipſe  
 idem A. p̄d Quinque Libr' eidem C. cum inde  
 poſtea requiſit fuſſet bene & fidelic' ſolhe &  
 contentare vellet pdic̄t tamen A. pmisſ & aſ-  
 ſumpcion' suas pdic̄t mie curans ſet machi-  
 nans & fraudulent intendens eundem C.  
 in hac parte callide & subdole decipere & de-  
 fraudare pdic̄t Quinqus Libr' seu aliquem  
 denar'

denar' inde eidem C. licet ad hoc faciens Com. Pleas.  
 pdic' A. postea scit (such a Day and Year) & sepius postea apud G. pdic' per eund' C. requisit' fuisset non solvit sed ille ei solvere oīo recusavit Et adhuc recusat ad dampnu' ipsius C. (sc.) Et inde p̄dūc' sct', sc.

*Indebitat' Assumpsit, upon a Mutuatus.*

For Money had and received by the Defendant.

Ut supra usq; ————— Quare cum pdic' A. 12 die Junii anno Regni dia' Dom' Regis nunc primo apud G. Indebitat fuisse eidem C. in decem Libz' in pecuniis numeratis p̄ pfat A. de eodem T. ante tempus illud mutuat' habit' & recept' (Or thus, Indebitat fuisse eidem quer' in 10 l. legalis monet' Mag' Brit p̄ consimili denar' summa p̄ pdic' Def. de pfat quer' ante tempus ille mutuat' hit & recept') Et sic inde Indebitat existet pdici' A. in cons' inde super se assumpsit & eidem C. pdic' 12 die Junii anno primo supradicto apud G. pdic' fidelic' promisit quod ipse pdici' A. pdic' 10 l. eidem C. cum inde postea requisit' fuisse bene & fidelic' solvere & contentare vellet pdic' tamen A. promission' & assump' suās pdic' mis̄ cūtans, (sc. as next before)



Declaration against one of the Endorsors of a Promisory Note.

Pasch. anno 13 Georgii Regis.

Cooke.

London s. C. D. nup de London Arnd  
A.B. de plito Transgr<sup>r</sup> sup casu, &c. Et unde  
idem A. p W. N. Attoz<sup>n</sup> suum queritur  
quare cum quidam E. F. post primum di-  
em Maii Anno Dom<sup>m</sup> 1705. scilicet quarto  
die Octob<sup>r</sup> Anno Dom<sup>m</sup> 1726. apud London  
po in Paroch bte Marie de Arcub in Warda  
de Cheap fec' quandam notam suad in  
scriptis manu sua prop<sup>r</sup> subscripsi' gerend  
dat' eisdem die & anno ult' supradici' & per  
eandem notam promisit solvere pdic' C.  
D. vel ordin<sup>m</sup> quindecim libz' uno mensis  
post dat' ejusdem note anglice (after Date)  
pro valor<sup>r</sup> recept' Cumq<sup>z</sup> eisam postea scilicet  
quinto die ejusdem mensis Octob<sup>r</sup> Anno  
Dni 1726. apud London pdic<sup>r</sup> in paroch  
& Warda pdic<sup>r</sup> d<sup>c</sup>us C. D. (pdic<sup>r</sup> quinde-  
cim Libz' in nota pdic<sup>r</sup> menconat' ei ins-  
solut' exist<sup>r</sup>) p quoddam Indorsamentu  
sui manu sua prop<sup>r</sup> sup ille notam indor-  
sat' ordinabit & appunctuavit content' ejus-  
dem note scilicet pdic<sup>r</sup> quindecim libz' solvend<sup>r</sup>  
cuidam G. H. vel ejus ordin<sup>m</sup> pro valor<sup>r</sup>  
recept' qui quidam G. postea scilicet eisdem  
die Anno & loco ult' supradic<sup>r</sup> pdic<sup>r</sup> quin-  
decim

The Note.

Defendants  
Indorsment  
to G. H. or  
Order.

decim libz' ei scilicet insolut' existent p In Com. Pleas.  
 dorsamentum manu sua propz' sup eandem notam indorsat ordinabit & appunctuabit content' ejusdem note scilicet pdict quindecim G. H. Indorsement to F.  
 libz' solvend cuiusdam J. K. vel ejus ordin K. or Order.  
 qui quidam J. postea scilicet eisdem die anno & loco ult' supradict' pdict quindecim libz' ei scilicet insolut' existent per indorsamentum manu sua propz' super e F. K. In andem notam Indorsat ordinabit & ap punctuabit content' ejusdem note videlicet pdict the Plaintiff quindecim libz' solvend pfat A. pro valo-  
 te recept' ac idem A. in facto die quod post separal Indorsament & ordinatione pd  
 sic ut pfertur fact' scilicet octavo die Novemb anno ult' supradict' apud London  
 pdict in Paroch & Ward pdict ipse idem A. ostendebat notam pdict & separal indorsa- Notice to the  
 ment pdict sup eandem fact' pdict E. F. Drawer of  
 & adhunc & ibm requisivit pdict E. F. the several  
 ad solvend content' ejusdem note videlicet pd quindecim libz' in eadem specificat secund to pay.  
 tenor' note & separal indorsament' pdict pfat A. sed idem E. F. easdem quindecim libz' seu aliquam inde partem eidem A. non solvit sed ill' ei hucusque solv' seu p eis- Drawer re-  
 dem aliqualit' contentare oio recusavit Un- fused to pay ;  
 de idem A. postea scilicet eisdem die anno & Notice  
 loco ult' supradict' pfat C. D. notie dedit thereof to  
 rone quoq' quidem pmis & vigore Stas- the Defen-  
 tatus in humoi casu' edit' & pvis pfat C. dant.  
 D. onabil' deven' & onabil' exist' ad solvend eidem A. pdict quindecim libz' in eadem nota mentionat Et sic onabil' ex istent idem C. D. in cons' inde postea scilicet eisdem die anno & loco ult' supradict' sup  
 se

Com. Pleas. se assumpsit & eidem A. adtunc & ibid<sup>m</sup> fidelic<sup>t</sup> pmisit quod ipse idem C. D. pdic<sup>t</sup> quindecim libz<sup>r</sup> eidem A. cum inde postea requisit<sup>r</sup> esset bene & fidelit<sup>r</sup> solve & contentare vellet, Cumque etiam pdic<sup>t</sup> C. D. postea scilt eisdem die anno & loco ult<sup>m</sup> menconat indebitat<sup>r</sup> suis<sup>s</sup> eidem A. in al<sup>l</sup> quindecim libz<sup>r</sup> legalis monet Magid Indebitat<sup>r</sup> Bzit p consili denar sunc p pdic<sup>t</sup> C. assumpt for D. p pdic<sup>t</sup> A. & ad ejus usum ante tem<sup>m</sup> Money had pus ille hic & recept<sup>r</sup> & sic inde indebia and received taf existen<sup>d</sup> idem C. D. postea scilt eisdem die anno & loco ult<sup>m</sup> menconat in cons inde super se assumpsit & eidem A. adtunc & ibid<sup>m</sup> fidelic<sup>t</sup> pmisit quod ipse idem C. D. pdic<sup>t</sup> quindecim libz<sup>r</sup> ult<sup>m</sup> menconat eidem A. cum inde postea requisit<sup>r</sup> esset bene & fideliter solve & contentare vellet Cumq<sup>t</sup> etiam pdic<sup>t</sup> C. D. postea scilt eisdem die anno & loco ult<sup>m</sup> menconat indebitat<sup>r</sup> suis<sup>s</sup> eidem A. in al<sup>l</sup> quindecim libz<sup>r</sup> suis<sup>s</sup> legalis monet p suli denar sunc p eundem A. ad spia<sup>s</sup> Instanc<sup>t</sup> & requisit<sup>r</sup> & ad opus & usum dci C. D. ante tem<sup>m</sup> pus ille expendit<sup>r</sup> exrapoit erogat<sup>r</sup> & solvit<sup>r</sup> & sic inde indebitat<sup>r</sup> existen<sup>d</sup> idem C. D. postea scilt eisdem die anno & loco ult<sup>m</sup> supradict<sup>r</sup> in Cons<sup>t</sup> inde super se assumpsit & eidem A. ad tunc & ibidem fidelic<sup>t</sup> promisit quod ipse idem C. D. dcas quindecim libz<sup>r</sup> ult<sup>m</sup> menconat<sup>r</sup> eidem A. Cum inde postea requisit<sup>r</sup> esset bene & fidelit<sup>r</sup> solve & contentare vellet Cumque etiam pdic<sup>t</sup> A. postea scilt eisdem die Anno & loco ult<sup>m</sup> menconat<sup>r</sup> mutuo dedisset & accosmodass<sup>r</sup> eidem C. D. al<sup>l</sup> sunc quindecim

For Money  
laid out and  
expended.

For Money  
lent.

tim libz' scilicet Legalis monet' idem C. D. Com. Pleas.  
in Cons' inde sup se assumpsit & pdict'  
A. adtunc & ibidem fidelit' pmisit quod  
ipse pdict' C. D. pdict' quindecim libz'  
ult menconat' pfat A. cum inde postea  
requisit' esset bene & fidelic' solvē & contens-  
tare vellet pdict' tamen C. D. separat' pmis-  
con & assumpcon' suas preō in forma pō-  
fact' mīe curans let machinaid & fraudu-  
lent' intendend' pfat A. in hac parte cal-  
lide & subdole decipe & defraudare preō  
separat' denar' sūnd seu aliquem inde denar'  
eidem A. nondum solvit nec ei p eisdem  
aliqualit' contentabit licet ad hoc faciens  
preō C. D. postea scilt eisdem die anno  
& loco ult' supradic' & lepinus postea p eundem  
A. requisit' fuīs' let ill' ei hucusque solvere  
seu p eisdem aliqualit' contentare idem C. D.  
oīo recusavit & adhuc recusat ad damp-  
num ipsius A. quindecim libz' & inde p'  
duc' sectam, &c.



Narr' on a Promisory Note against the  
Drawer.

Pasch. decimo tertio Georgii Regis:

Cooke.

Midd fl. Carolus D. nup de Westm in  
Com Midd Ar. Attach fuit  
ad respond A. B. & J. S. de plito Transgr  
sup casu fe. Et unde idem A. & J. p E.  
F. Accord suum queruntur quod cum  
pred Carolus D. post primum diem Maii  
Anno Domini millesimo septingentimo quin-  
to scilicet decimo die Septembz anno Domini  
millesimo septingentimo vicesimo sexto apud  
Westm p[ro]p[ter]a in Com Midd p[ro]p[ter]a fec  
quandam notam suam in script vocat a  
Promisory Note manu sua p[ro]p[ter]a adinde  
subscript gerevit dat eisdem die & anno  
ult' supradicta & eandem notam adiunc &  
ib[us] cuidam G. H. delibavit p[ro]p[ter]a quam quis-  
dem notam idem Carolus D. promisit sol-  
vo p[ro]p[ter]a G. H. per no[n]en M[aii] G. H.  
vel ordin Centum libz sex mensib[us] post  
dat eisdem note p[ro]p[ter]a valore recept idem  
que G. H. postea scilicet & infra pred sex  
mensib[us] scilicet eisdem die & anno ult' sus-  
pradicat apud Westm p[ro]p[ter]a in Com p[ro]p[ter]a cen-  
sum libz in nota p[ro]p[ter]a mentionat seu ali-  
quam

quam inde parcel mie solus seu satis-<sup>Com. Pleas.</sup>  
 fact' existent p quoddam Indorsament' su-<sup>w</sup>  
 per notam pō fact' & script ac manu ppr'  
 ipsius G. subscript ordinavit & appunctua-  
 vit p̄dē Centum libz' in nota p̄dē mens-  
 ionat forz solus eisdem A. & J. ac postea  
 scilicet eisdem die & anno ult' supradict' i-  
 dem Carolus D. apud Westm̄ p̄dict in  
 Com̄ p̄dict de Indorsament' p̄dict hunc  
 notit ac rōne pmiss' nec non vigore Sta-  
 tut in humoi casu nup edit & p̄vis' i-  
 dem Carolus D. Onerabilis deven' ad  
 solvend eisdem A. & J. p̄dict Centum  
 Libz' in nota p̄dict mentionat secund for-  
 man & effect' ejusdem note & Indorsa-  
 ment' p̄dict lupinde sic ut p̄fert fact' Et  
 sic onabil erit p̄dict Carolus D. in  
 cons' inde postea scilicet eisdem die & anno  
 ult' supradict' apud Westm̄ p̄dict in com̄  
 p̄dict sup se assumpit & eisdem A. & J.  
 adtunc & ibm fideliter promisit ad solvend  
 eisdem A. & J. p̄dict Centum libz' in no-  
 ta p̄dē mentionat secund tenorem ejusdem  
 note & Indorsament' p̄dē p̄digus tamen, sc.

Narr' upon a Promisory Note against  
the Drawer.

A. vers' B. de placito trans' super Casum,  
&c.

As in the  
Note to  
Bearer, &c.  
Vide Stat. 3  
and 4 An. c.  
9. & Corn-  
walls Tables.

**E**t unde idem A. per, &c. Attorni su-  
um queritur quare cum pō B. post  
primum diem Maii anno Domini 1705. scilicet  
30 Maii anno Domini 1711. apud Westm'  
in Com' pres' fec' quandam Notam suam  
in scriptis vocat a Promisory Note, ma-  
nu sua ppx' subscript gerent' dat eiusdem  
die & anno ult' mens' Ac notam ill' ei-  
dem A. adtunc & ibm delibavit p' quam  
quidem Notam idem B. pmisit solvere  
eisdem A. (vel ordini suo) summam 10 l.  
in duobus mensibus post dat) (or, infra  
spacium duorum mensium post dat) ejus-  
dem Note,) (or, super demand, &c. as by  
the Note) Ac rōne inde necnon vigoze  
Statuti in hūusmodi Casu nuper edit &  
pviꝫ idem B. onerabil' devēn ad solvend  
eisdem A. eandem denar' summam secund  
tenorem Note pō Et sic onerabil' existēd  
pō B. in cons' inde postea scilicet pō 30  
die Maii Anno Dom' 1711. supradict' a-  
pud W. pō sup se assumplit & eidem A.  
adtunc & ibm fidelit pmisit ad solvend  
ei pō denar' suām secund tenorem ejus-  
dem Note, pō tamen B. promissiōn' & as-  
sumptiōn' suas pō (ut in al.)

See

See before in the *King's Bench*, for a Declaration upon a Promisory Note.

*Indebitat' Assumpsit.*

For Goods and Merchandizes.

Ac supra usq; — Indebitat' fuisset ei-  
dem C. in 20 l. legalis monete Magd  
Bzit' p diversis bonis Mercimoniū & Mer-  
chandizis p pfat' A. de eodem C. ante  
tempus illud empt' hit' & recept' (Or thus,  
Per pō C. eidem A. ante tempus illud  
vendit' & deliberat') Et sic Indebitat' exi-  
sten' pō A. postea scilicet (such a Day and  
Year) apud G. pdia' in consideracione in-  
de sup se assumpsit (sc.) Or thus, Et sic  
inde indebitat' existēd' idem def. in cons  
inde postea scilicet eodem . . . . die  
• . . . . anno . . . . supradicto apud  
• . . . . sup se assumpsit, sc. (as before.)

Note. These Narr's are usually laid  
three Ways, viz. Indebitat' ass' pro  
10 l. p bonis Mercimoniū & Merchandiz'  
Quancum valebant p al 10 l. & in-  
simul computasset pro al 10 l. &c.

## Insimul Computasset in Cas.

Attach' fuit, &c. ut antea usque—  
 Quare cum pdic' A. primo die Maii anno Dom' 1726. apud G. insimul computasset cum pfat' C. de diversis denar' summis eidem C. p pfat' A. ante tempus illud debit' & insoluit' Et super Compo' illo idem A. invent' fuit in arrerag' erga eundem C. in 10 l. legalis monete Mag' Brit' Et sic in arrerag' invent' existet pd A. in consideracione inde postea scilicet eisdem die & anno apud G. pd super se assumpsit & eidem C. adtunc & ibm fideliter promisit quod ipse idem A. pd 10 l. eidem C. cum inde postea requisit' fuisset bene & fideliter solvere & contentare vellet pd tamen A. pmissione & assumptione suas pdict' miscurans, &c. (as before.)

Note, That upon several Narr's joined in one Declaration, 'tis convenient to leave out (*in toto se ättingen'*) to prevent mis-reckoning, which may prove erroneous.

See for the Laying of several Promises in one Narr' in the Declarations for the King's Bench, which is the same in the Common Pleas, mutat' mutand'; but more particularly in the 2d Part of Instr. Cler.

For

For an Executrix —— say —— ad Com. Pleas.  
 respondend A. B. vid Executric Testi  
 G. H. de plito (sc.) Et perfert hic in Cur  
 tam scripium (sc.) quam Literas Testa  
 mentarias (sc.)

## A Declaration in Ejectment.

Cooke.

Trin' primo Georgii secund' Regis.

Som<sup>r</sup> s. A. B. nup de C. in Comd  
 ad respondend E. F. de placito quare Vi  
 & Armis unum Messuagium, sc. (naming  
 them) cum p*riu*m in G. que H. J. Gen*d*  
 eidem E. dimisit ad termin*m* qui nondum  
 p*ter*uit intravit & ipsum a Firma sua p*ro*  
 ejecit Et alia enormia ei inculit ad grave  
 damp*m* ipsius E. Et contra pacem D*omi*n*is* Note, If the  
 Regis nunc Et unde idem E. p*ro* R. G. Land or Pre  
 Attorn*y* suum queritur quod cum p*ro* H. J. misses be in  
 primo die Maii anno Regni Dom*ini* Regis several Pa  
 nunc primo apud G. dimisisset eidem E. rishes, the  
 Tenta p*ro* cum p*riu*m habend & occupant Venue must  
 Tenta p*dict* cum p*riu*m eidem E. & assign*m* su  
 is a primo die Martii tunc ul*l* p*ter*it us  
 q*u* finem & termin*m* Trium annorum ex  
 tunc p*re* seque*m* & plenar comple*m* & fi  
 niend virtute cuius dimissio*m* eidem E.  
 in Tenta p*ro* cum p*riu*m intravit & fuit in  
 de possessionat ipso*q* E. sic inde possesi  
 onat exist*m* p*ro* A. postea scilicet eodem

Com. Pleas. primo die Maii anno primo supradicto vii & armis, &c. in Tenuta pō cum periti que p̄fat H. J. eidem E. in forma p̄dict dimisit ad terminum qui nondid p̄terit intravit & ipsum E. a Firma sua p̄dict' ejecit & alia enormia, &c. ad grave dampnum, &c. Et contra pacem, &c. Unde dic' quod deteriorat est & dampnum habet ad valen-  
tiam 20 l. Et inde p̄due lectam, &c.

*Note,* This Ejectment being usually to try a Title, the Plaintiff makes some Friend Defendant; and then Notice is given to the Tenant in Possession to defend his Title, after the Manner of the *King's Bench*, viz. on the Bottom or Back of the Narr'. *Vide* p. 219. for the Form thereof.

If there be Occasion to make an Affidavit of the Service of the Declaration to ground a Rule for Judgment by Default; you annex a Copy of the Declaration wrote upon a double Penny Stamp to the Affidavit: The Form of the Affidavit you will find in the *King's Bench*, p. 221.

And after a Motion, you call on the Secondary to draw up the Rule against the casual Ejector, for which he now takes 6 s. viz. Affidavit 2 s. Regul' 2 s. Debit' R's. 2 s. and if the Affidavit was taken in the Country 1 s. more.

Then you carry this Rule to the Prothonotary to sign, for which he takes 2 s. but now the Secondary usually takes the 2 s. which makes 9 s.

*Note,* The Secondary upon the Motion, keeps your Affidavit and Narr', so that you ought to have another filled up by you, or to fill up one by that in his Custody.

But if the Tenant appear, and is willing to enter into a Rule by Consent, it is to be drawn up after this Manner, *viz.*

Cooke.

Hill' Georgii Regis duodecimo.

*Note,* These Rules are to be had ready printed.

Lincoln s. O *Ubinat' est per Cur' ex as-*  
*sensu J. S. Attorū Quer'* Denn *versus*  
Fenn de uno  
mess. uno  
*& H. Y. Attorū p A. B. qui clam' titu-*  
*lū Tēntorum in questione quod idem A. horreo uno*  
*B. admittatur Def. quodqz idem A. indi-*  
*stabulo, &c.*  
*late comparebit p Attorū suum pdict qui cum pertin-*  
*recipiet narrāconem ac plitavit adinde Ge-* in S. in Com-  
*neral Ex' hoc Tērmino Et ad triaconem L. ex dimis-*  
*superinde habend' idem A. comparebit in* sione R. G.  
*ppl' psonā sua aut p ejus Consilium vel*  
*Attorū*

Com. Pleas. Attorn & cognitio dimissio intraçion & actual expulſion de tant Tentor in Narr  
 Note, This Rule need not be Stamped.

Quer' spec' quant' erit' in possessione dicti Def. vel ejus tenet aut aliquarum personarum clamant per vel subier ejus titulo vel quod in defect' inde intretur Iudicium versus Def. R. Fenn casualem Ejectorem set parcatur prosecuto versus eum quo usqz defalt in aliquo pmissor' sit & ex consili assensu ulterius Ordinat est quod si rōne humor defalt' querent devēn non prosp sup triacione dic' A. null capiet inde advan tagium set solvet eidem Querent custag p Prothonotar' pinde taxand Et ulterius Ordinat est quod dimissor' Querent sit onestabil cum soluçone custag pfat A. per Cur hic aliquo modo allocand vel adjudicand.

Per Cur  
 J. S. pro Quer  
 K. S. pro Def.

The Attorneys having written their Names to the Bottom of the Rule, then you enter an Appearance upon it, with the Filacer of the County, for which he takes 1 s. and if two Defendants, 1 s. by himself, 4 d. then you carry it to the Prothonotary to pay for Ld Lo', who takes 2 s. and leave it with his Plea in the proper Office. then to the Secondary who takes 1 s. 6 d. besides Duty, and keeps your Rule by Consent, and fills you up two others after this Mannner:

Cooke.



Cooke.

Hil<sup>t</sup> 12 Georgii Regis.

Denn versus Fenn s. Ordinal est per No adding  
Cur ex assensu, &c. (as before.)

p Cur'

R. Cooke, Rule of Court.

One of which afterwards you affix to a Copy of the Issue, and deliver it to the Defendant's Attorney, who usually has it *gratis*, because he does not put you to the Trouble of a Motion, and you may also then give him Notice of Trial, if you think fit.

Yet I have known the Fees of Delivery thus :

|               | l. | s. | d.  |
|---------------|----|----|-----|
| Cop' Exit'    | —  | —  | 2 6 |
| Dimid' reg'   | —  | —  | 3 6 |
| Appearanc'    | —  | —  | 2 0 |
| Intr' Placit' | —  | —  | 2 0 |
| War' Att'     | —  | —  | 0 8 |
|               | —  | —  | —   |
|               | 0  | 10 | 8   |

Of

Com. Pleas.

Of which the Defendant's Attorney  
 will abate about 5 s. for his half Fee.

If you are to sign Judgment against the casual Ejector, first search the Prothonotary's Plea-Book ; if no Plea be, you must stamp the Declaration you kept by you with a double Half-Crown Stamp, then affixing the Rule against the Casual Ejector the Prothonotary will sign your Judgment, for which he takes 12 s. 8 d. after this you may make out your Writ of Possession ; Fee for signing is 1 s. 4 d. then enter your Judgment by *Nil dicit* on a Roll, &c.

If the Plaintiff gives Notice of Trial and proceeds not at the Assizes, then upon an Affidavit made thereof the Defendant may have a Rule of Course for the Prothonotary to tax Costs for the Defendant's Attendance, viz. *With 12 Geor-  
gii Regis 24 Nov. Super Sacro-  
R. B. Gen ordinat est quod dimissor quer-  
solvet Def. vel ejus Attorn Custag' per  
Mund F. taxand in plent' ejusdem dimis-  
sor' quer vel ejus Attorn si adesse vo-  
luit p ejus attendant' ad ult Assizes p  
Com H. tent eo quod idem dimissor quer  
non processit ad triacōd iuxta notit' dat  
Miss dimissor Quer super notit' hujus Re-  
gle sibi vel Attorn suo dand' ostendit Caus-  
am sufficien in contrar' cozam pfat Mō  
F. tempore taxacōd custag' ill.*

p Cur

Townsend.

Note,

Note, Upon this Rule (the Attorney not attending in reasonable Time) the Prothonotory allows common Costs 33*s.* 4*d.* and takes no Fee thereon.

A Declaration by an Attorney of the  
Common Pleas.

London<sup>ss.</sup> A. B. nuper de, (sc.) at-  
each fuit p bre Dñi Regis de privileg'  
Cur hic emanat ad respond J. S. Gen  
vid Attorn Cur Dom Regis de Banco  
hic iuxta libertat & privileg' de pdict' Ban-  
co a tempore quo non extat memoria usi-  
tat & approbat in eadem de plito Transgr'  
super Casum sc. Et unde idem J. in ppr'  
person sua queritur quare cum (sc.) Et  
inde pduc seca', sc.

Pledges must be added to a Bill by  
an Attorney or Clerk, or otherwise  
Cause of Demurrer.

Pleg' de Prox } *Johes Doe.*  
} *Riclus Roe.*

See afterwards for a Narr' against an  
Attorney.

De-

Declaration brought by one of the Prothonotary's Clerks.

Cooke.

¶ A. B. nup de C. in Com<sup>d</sup> p<sup>d</sup>ict Yeo-  
man attach fuit p<sup>r</sup> hre Domini Regis nunc  
de Privileg<sup>e</sup> Cur<sup>r</sup> hic emam ad respond E. F.  
Gen<sup>m</sup> un<sup>r</sup> Cleric Georgii Cooke, Mil Capita<sup>p</sup> Prothon<sup>m</sup> Domini Regis de Banco  
[juxta libertat' & privileg' ejusdem Curie  
pro hujusmodi Clericis & aliis Ministris de  
eodem Banco a tempore quo non extat  
memoria usitat' & approbat' in eadem] de  
placito Transgres. super Casum Et unde  
idem E. F. in propria persona sua queris-  
tur quare cum, &c.

Pleg de Pro<sup>r</sup> { Johannes Doe.  
Ricardus Roe.

Declaration in Trespass.

Pro januis Verks<sup>s</sup> s. C. D. nuper de S. in Com<sup>d</sup> po-  
fratt<sup>r</sup> & pro- Yeoman attach fuit ad respondend A. B de  
frat<sup>r</sup> & lig- plito quare vi & armis Clausum ipsius A.  
nis asportatis. apud S. fregit Et herbam suam ad valen<sup>t</sup>  
quadraginta solid ibidem nup crescen<sup>r</sup> pedib<sup>r</sup>  
ambulando conculcavit & conlumpsit ac blada  
& al herbam sua ad valen<sup>t</sup> centum solidorum  
ibidem nup crescen<sup>r</sup> cum quibusdam aperiis  
de paſt<sup>r</sup>

depast' fuit conculcabit & consumpsit nec non Com. Pleas.  
 januas & repagula sua ibidem nup erecit fre-  
 git & pstrabat & lignum de januis & repagu-  
 lis illis pvenient ad valenc quinquaginta los-  
 litorum cepit & asportavit & alia enormia ei  
 intulit ad grave dampnum ipsius A. Et contra  
 pacem Dom' Regis nunc, sc. Et unde id A.  
 p J. S. Attorū suum queritur qd pō C. prius  
 die Augusti Anno Regni Domini Regis  
 nunc primo vi & armis, sc. Clausum videſt  
 ————— ipsius A. apud S. fregit & herbam  
 suam ad valenciam, sc. ibidem nuper crescent  
 pedibus ambulando conculcabit & consumpsit  
 ac blada videſt criticum sliginem hordeum  
 pisas fabas & avenas & al herbam sua ad va-  
 lenc, sc. ibidem nup crescent cum quibusdam  
 averiis videſt equis vobus vaccis porcis vitu-  
 lis & bidentibus depast' fuit conculcabit & con-  
 sumpsit nec non januas videſt duas januas &  
 repagula videſt viginti repagula sua ibidem  
 nup erecit fregit & pstrabat & lignum videſt  
 unam caretat ligni de januis & repagulis il-  
 lis pvenient ad valenc, sc. cepit & asporta-  
 vit transgres. pdictam quoad conculcationem  
 & consumpcion herbe pō pedib⁹ ambuland' &  
 depast' conculcation & consumpcion bladorum  
 & al herbe pdictorum cum averiis pdic' a pō  
 primo die Aug. Anno primo supradicto usq;  
 sextum decimum diem Decemb̄is tunc prop'  
 sequeſt diversis diebus & vicibus continuando  
 Et alia enormia, sc. ad grave dampnum, sc.  
 Et contra pacem, sc. unde dic' quod deterio-  
 rat est & dampnum habet ad valenciam dece-  
 libarum & inde pōue lectam, sc.

See more in the Second Part of Instruct.  
 Cler. Tit. Trespass.

## Trespass and Assault.

As before, usque —— de plito quare  
 vi & armis in ipsum E. apud G. insult' fecit  
 & ipsum verberavit vulneravit & maletractabit  
 ita quod de vita ejus desperabat' Et alia enor-  
 mia ei intulit ad grave dampnū ipsius E. &  
 contra pacem Domini Regis nunc, sc. Et  
 unde idem E. p J. S. Attorū suū queritur  
 qd pdic̄ A. primo die Decemb̄is Anno Reg'  
 dici Domini Regis nunc primo vi & arm̄  
 videbat gladiis baculis & cultellis in ipsum E.  
 apud G. insult' fecit & ipsum verberavit vul-  
 neravit & maletractabit ita quod de vita ejus  
 desperabatur Et alia enormia, sc. Ad grave  
 dampnū, sc. & contra pacem, sc. unde dic'  
 quod deteriorat̄ est & dampnū habet ad valenc  
 50 l. Et inde pdic̄ lectam, sc.

## Trover.

ff. A. B. nuper de C. in Com̄ predicit'  
 Yeoman attach fuit ad respondend D. E.  
 de plito transgrel. super casum, sc. Et unde  
 idem D. p J. S. Attorū suū queritur quare  
 cum p̄ D. decimo quinto die Junii anno reg'  
 Dom̄ Reg' nunc primo apud L. in Com̄ p̄  
 possessionat fuisset de bonis & catallis se-  
 quend, viz. [here insert the Goods you  
 bring the Action for] ad valenc centum  
 libr' ut de bonis & catallis suis p̄priis ——  
 Et sic inde possessionat existet idem D. bona  
 & cas

¶ catalla p̄dicta extra manus & possessioni suas Com. Pleas.  
 casualiter p̄didit & amisit q̄z quidem bona & ca-  
 talla postea scilicet p̄dicta decimo quinto die  
 Iunij anni p̄dicti suprað apud L. p̄o in Com. p̄o  
 ad manus & possessioni p̄dicta A. per inven-  
 tioñ devener̄ p̄dicta tamen A. sciens bona  
 & catalla p̄dicta fore bona & catalla ipsius  
 D. p̄pr' & ad ipsum D. de fure spectare  
 & p̄tinere machinans tamen & fraudulent'  
 intendens ipsum D. de bonis & catallis  
 illi callide & subdole decipere & defraudare  
 bona & catalla p̄dicta licet sepius requisit fu-  
 isset eidem D. non deliberabit se bona & ca-  
 talla p̄dicta postea scilicet decimo quinto die  
 Iunij anni suprað apud L. p̄o in Com. p̄o in usq;  
 huius p̄pr' convertit & disposuit ad dampnum ip-  
 sius D. 150 l. Et inde p̄duc sectam, &c.

Narr' upon a Bill filed against an Attorney  
 in Debt.

Cooke.

Mich. duodecimo Georgii Regis.

Memozandum quod 23 die Octobris isto Note, It's said  
 eodem Termino videlicet hic in Curia A. B. p̄<sup>the Memorandum</sup>  
 C. D. Attorni suu & exhibuit Justicie Domini dum ought to  
 Regis hic quandam Willam suam versus be the First  
 F. F. Gen. un Attorni Curie Domini Regis Term.  
 de Banco p̄leid hic in Curia in propria persona  
 sua cūsus quidem Bille tenor sequitur in \* The Bill  
 hec verba] \* Justicie Domini Regis de Banco filed to be  
 scilt A. B. p̄ C. D. Attorni suu querit de ingrossed on  
 G g E. F. Parchment,

Com. Pleas. E. F. vid Attorn<sup>y</sup> Cur Domini Regis de Banco als dict, (sc.) pslen' hic in Cur in propria persona sua de eo quod, (sc. ut in a<sup>f</sup> in Debt, sc.) Et dampn<sup>y</sup> habet ad valenc<sup>e</sup> 20 l. Et inde pet<sup>r</sup> remedium, sc.

The Bill.

*Note*, That upon a Bill filed, the Defendant is first called in Court, and then a Rule given to plead, or to be fore-judged. The Bill begins thus, at \* Justic Dom<sup>y</sup> Regis, (sc.) and you must write over it the Term, and file it in the Office.

*Note*, The Declaration must be entred on the Roll with a *Memorandum* of the First Day of the Term the Bill was filed, and with an Imparllance to the first Day of the next Term, if the Defendant pleads not the same Term the Bill was filed.

To the Prothonotary to sign the Bill after called, 1 s.

To the Secondary for a Rule thereon,  
4 d.

of

## Of Issues.

*Non Assumpſit infra ſex annos.*

**E**t pdic̄t C. p E. Attorū ſuū veñ & deſ Non Assumpſit ſend vim & injur quando, &c. Et dic̄ infra ſex an- qd̄ pd A. accōn ſuam pdic̄ inde verſus eum nos. habere non debet quia dic̄ quod ipſe non al- ſumpſit ſup ſe ad aliquod tempus infra ſex annos ante diem impetrac̄ h̄is originali ip- ſius A. modo & forma put pdic̄ A. ſuperius verſ eum queritur Et hoc parat eſt verificare unde pet Iudic̄ ſi pdic̄ A. accōn ſuam pdic̄ inde verſ eum habere debeat, &c.

Et pdic̄t A. dicit qd̄ ipſe p aliqua p pdic̄ C. pallegat ab accōne ſua pdic̄ habend pcludi non debet quia dic̄ qd̄ pdic̄ C. infra ſex annos ante diem impetrationi h̄is origi- nal ipliſus A. ſcīt pdic̄ . . . . . die . . . . . anno Regni dicit Domini Regis nunc primo ſupradic̄ apud S. pdic̄ allumpſit ſuper ſe modo & forma put ipſe item A. ſu- pius verſus eum queritur Et hoc pet' qd̄ inquiratur per patriam & pdic̄ C. ſimiliter Ideo precept̄ eſt Uic̄ quod Venire fac hic in Octab Pur Beate Marie duodecim, &c. per quos, &c. & qui nec, &c. ad recognit̄, &c. quia tam, &c.



That he paid the Money according to his Promise.

*Solvit ad diem.* Quando, sc. actionē non, sc. quia dic  
quod post promissionē & assumpcionē suas pd'  
in forma pdict fac' & ante diem impetrat  
hīs original pdict A. scilicet . . . . die  
. . . . Anno Regni dicit Domini Regis  
nunc primo supradicto ipse idem C. apud D.  
pdict bene & fivelit solvit p̄fāt A. pdict s̄ l.  
secund pmmissionē & assumpcionē suas pdict Et  
hoc, (sc.) unde, (sc.)

Et pdict, (sc.) precludi non debet quia  
dic quod predict C. non solvit eidem A. pre-  
dict s̄ l. modo & forma p̄t dict C. superius  
placitando allegavit Et hoc pēt quod in-  
quiratur p̄ patriam Et pdict C. similiter  
Ideo, (sc. ut in al)

Defendant pleads Non-age at the Time of  
the Promise.

*Deins Age.*

Quando, sc. & dic quod ipse tempore  
promissionē & assumpcionē ill' fac' fuit infra  
etat viginti & uī annos Et hoc, (sc.)  
unde, (sc.)

Precludi non, Quia dic quod pdict R.  
tempore promissionē & assumpcionē ill' fac'  
fuit plene etat viginti & uī annos prou-  
ut predict C. superius allegavit Et hoc  
pēt, (sc.)

If a Bond, you say, tempore confectione Com. Pleas.  
 Script Obligatorii pdic*t*; And to a Bill, *wave*  
 tempore confectione Bill ill*e* fuit infra etat,  
 (sc.)

Non Assumpsit to the First, Second and  
 Third Promises, and Payment to the  
 rest.

Quando, &c. Et quoad primam secundam  
 & tertiam promissione in Narr*e* pdic*t* superius  
 mene dic quod ipse non assumpsit super se  
 modo & forma prout pdic*t* A. sup*e*nus versus  
 eum inde queritur Et de hoc p*on*d*e* se sup  
 p*ri*am & pdic*t* A. inde similis Et quoad pd*o*  
 ultimam pmmissione in eadem Narr*e* sup*e*nus  
 similiter mene (acc*on* non) quia die q*uo*d ipse  
 pdic*t* C. post promiss*e* & assump*c*ione ill*e* in  
 forma pd*o* fact*e*, (sc.) As before he paid the  
 Money according to the Promise, &c.

Et pd*o* A. die q*uo*d ipse p*er* aliqua p*er* pd*o* C. p*ro*-  
 allegat ab actione sua pdic*t* quoad pdic*t* ulti-  
 mam pmmissione in Narr*e* ill*e* sup*e*nus mene ha-  
 bendo p*re*cludi non debet quia dic*t* quod pdic*t* C.  
 non solvit eidem A. pdic*t* 30 s. modo & for-  
 ma p*ut* pdic*t* C. superius placitando allega-  
 vit Et hoc per quod inquiratur per Patriam  
 & pdic*t* C. s*icut* Ideo quoad trian*e* tam exit  
 ist*e* quam pdic*t* al*e* exit inf*e* partes pdic*t* su-  
 g*e*nus junct*e* p*cep*t est Vic*e* quod ve*n* fac*e*, (sc.  
 ut in al*e*.)

*Non Inform' to one Promise, and Non Assump'st to the other.*

Et pdict C. per, (sc.) quando, sc. Et quoad primam pmissionem pdict idem At-  
ton dicit quod ipse non est inform'd p eundem  
C. magistrum sicut, (sc. as in other Pon  
inform'd usque indefens') ob quod cons' est  
quod idem A. dampna sua occasion' non pfor-  
macon' prim' pmission' pdict vers' pfa' C.  
recuperare debeat, sc. Et quoad secundam  
pmission' pdict C. dicit quod pdict A. ac-  
con' suam pdict inde versus ipsum C. ha-  
bere non debet quia dicit quod ipse non al-  
sumpsit sup se modo & forma pta' pdict  
A. supius vers' ei' queritur Et de hoc  
pon' se super Patriam & pdict A. inde  
similit & quia conveniens est & necesse  
quod unica fiat taratio dampnozum pdict  
occasion' pmiss' ideo casset breve de inquir' de  
dampnis occone pmiss' quoisque exit int  
partes pdict supius junct' terminetur Ideo  
quoad trian' tam exit pdict inter partes pdict  
supius junct' qm' ad inquirend que dampna  
idem A. in hac parte sustinuit pcept' est tunc  
quod venire fac hic, sc. (as in other.)

*Unica taxatio  
dampnorum.*

Plene

## Plene Administravit.

The same as in the King's Bench, only instead of die exhibicōn' Will, you say, nec habuit die impetracionis brevis, &c, as follows.

¶. —— (Accōn' non) quia dicē quod ipse plene administravit omnia bona & catalla que fuer' p̄dict' H. tempore mortis sue & quod ipse non habet nec die impetrat brevis originał ipsius W. p̄dict' nec unquam postea habuit ulla bona seu catalla q̄z fuer' p̄dict' H. tempore mortis sue in manibus suis administrāt. Unde ipse C. [p̄dict' separāt denar' sum' seu aliquem inde denar' or] debūtum predict' eidem W. solvere potuit Et hoc, (¶c.) unde, (¶c.)

That Administration was never granted to the Defendant.

Accōn' non quia dicē quod administratio bonorum & catallorum que fuer' p̄dict' J. tempore mortis sue eidem Def. nunquam commissa fuit Et hoc, (¶c.) unde, (¶c.) ut in al.

Precludi non quia dicē qđ administratio bonorum & catallorum que fuer' p̄dict' J. tempore mortis sue per dict' Scriptum p̄stat Def. commiss fuit put ipse supius versus eum narravit Et hoc p̄f quod inquirat p̄ Patriam & p̄dict' Def. similiter Ideo p̄cept' est Will, (¶c.) as in others.

*Comperuit ad diem* pleaded to a Sheriff's Bond.

This being  
an issuable  
Plea, tis said  
there is no  
Need of a  
Serjeant's  
Hand to it.

Quando, sc. Et pet' auditum Scripti po'  
Et ei legitur, sc. pet' etiam auditum Condicōn' ejusdem Scripti Et ei legitur in hec  
verba, The Condition, (sc.) Quibus lexis  
& auditis idem C. dicē quod pdict A. (ac-  
con' non) quia dicit quod ipse pdict C. com-  
puit eozam p̄fāt Justice dicē Domini Re-  
gis hic scilicet apud Westm̄ in po' Octab  
Sanci Hillarii ad respondō p̄fāt A. B. de  
pdict placito secundum formam & effectū  
condicōn' predicti cuius quidem C. compa-  
renzia in Curia Regis hic adiunct recordabat'  
put p Record inde in ead̄ Cur̄ hic residen' li-  
quet manifeste Et hoc, (sc.) unde, (sc.)

Repl.

Precludi non quia dicē quod non habetur  
aliquod tale Record comparenc po' C. eozam  
p̄fāt Justice dicē Domini Regis hic scilicet  
apud Westmon' in pdict Octab Sanci  
Hillarii in Curia Regis hic remanen' qual  
ipse supius allegavit Et hoc parat est ve-  
rificare unde pet' Judic & deb̄m suū una-  
cum dampnis suis occōne detencon' debiti  
ill̄ sibi adjudicari, sc.

Et pdict C. ut prius die qd̄ habetur tale  
Recordum comparenc pdict C. eozam pdict  
Justice dicē Domini Regis remanen' qual  
ipse supius allegavit Et pet' quod Record  
illud p Justice hic videatur & inspiciatur Et  
quia Record illud parat' hic in Cur modo non  
habet dēm est p̄fāt C. quod Record ill̄ p  
se

se scrutat' illud habeat hic [ \* a die Pasch Com. Pleas.  
in tres Septimanas] idem dies dat' est parti-  
bus pdict hic, &c.

\* It ought to  
be returna-  
ble in a Return, unless by Privilege, and Rules to be given  
before Judgment signed upon deficit de Record'.

For Nul tiel Record, see the Fourth Part  
of *Instructor Clericalis*.

*Non damnificatus to a Counter-Bond.*

Quando, &c. Et per' auditum Scripti pd'  
Et ei legitur, &c. per' etiam auditum con-  
dition' ejusdem Scripti Et ei legitur in hec  
verba (the Condition of, &c.) Quibus lect'  
& auditis idem C. dic' quod pd' A. accon' suā  
pdict inde versus eum habere non debet quia  
dic' quod pd' A. post confeccon' Scripti pdic'  
& ante diem impetrac brevis Original' pdic'  
A. non damnific' fuit pro aut concernit pre-  
dict Script' Oblig' in condition' pdict super-  
rius specificat' in quo pdic' A. simul cum eos  
C. conjunct & divisim tenebantur pfat' S. T.  
& hoc, (etc.) unde, (etc.)

(Quer' pdidi non) quia dic' qd' pdic' C.  
sup pdic' decimum diem Maii in conditione  
pdic' superius specificat' non solvit pfat' S. T.  
pdic' so l. in conditione ille similiter specificat'  
quas eidem S. sup eundem diem solville  
debuisset p quod pdic' Script' Obl' p pd'  
A. B. & C. D. pfat' S. T. fact' & sigillat' pro  
solucone pdic' so l. sozifact' fuit sup quo

Com. Pleas. idem A. p evitazione secl in lege & periculo-  
 rum & incumbanc qz in & sup eundem A. &  
 statum sudi ratione non solutionis pdict 50 l.  
 secund' formam & effectum conditioni pdict  
 incidisse potuissent easdem 50 l. postea scilicet  
 20 die Junii anno Regni dict Domini Re-  
 gis nunc primo apud L. pdict pfat S. sol-  
 vit in plenam satisfactionem pdict Script<sup>e</sup>  
 Obl 100 l. in pdict Obl superius specificat  
 Et sic idem A. dicit quod ipse damnificat'  
 fuit ratione pdict Scripti Obligatorii 100 l.  
 contra formam & effectum conditionis pdict  
 supius spee<sup>c</sup> Et hoc parat' est verificare unde  
 pet Judic & debetum sudi pdict unacum  
 dampnis suis occasione detentionis debiti  
 illi sibi adjudicari, &c.

Rejoinder.

Et pdict C. dicit quod pdict A. pdict 20  
 die Junii anno primo supradict non solvit p-  
 fat' S. T. pd 50 l. modo & forma pnt pdict  
 A. supius allegavit Et de hoc pon' se sup  
 patriam Et pdict A. similiter Ideo pcept'  
 est Wilc, (sc.) ut in al.

Non detinet.

Quando, &c. Et die quod ipse non detinet  
 pfat A. B. pdict 30 l. nec aliquem denar in-  
 de in forma qua idem A. superius vers<sup>e</sup> cum  
 narravit Et de hoc pon' se sup P'riam, (sc.)

Nil

*Nil debet nec detinet.*

Et pdic<sup>t</sup> J. S. p A. B. Attor<sup>y</sup> suu<sup>r</sup> vend<sup>t</sup> & defend<sup>t</sup> vim & iur<sup>s</sup> quando, &c. Et dicit quod ipse non debet pdic<sup>t</sup> R. R. pdic<sup>t</sup> 10 l. nec aliquo<sup>d</sup> denar<sup>r</sup> inde in forma qua idem R. R. superius versus eum narravit nec detinet pdic<sup>t</sup> R. R. pdic<sup>t</sup> equum in forma qua idem R. superius vers<sup>s</sup> eum narravit Et de hoc pon<sup>d</sup> se sup<sup>r</sup> Patriam, (xc.)

*Non dimisit to Debt for Rent:*

Quando, &c. accor<sup>d</sup> non, (xc.) quia dicit quod idem A. non dimisit eidem D. tementia pdic<sup>t</sup> cum priu<sup>r</sup> put pdice A. superius vers<sup>s</sup> eum narravit Et de hoc pon<sup>d</sup> se super Patriam, (xc.)

*Conditions perform'd.*

See before in the King's Bench: And see the Fourth Part of *Instructor Clericalis*.

*Tender of the Money to a Bond.*

Quibus lectis & auditis idem A. dic<sup>e</sup> quod pdic<sup>t</sup> B. (accor<sup>d</sup> non) quia dic<sup>e</sup> q<sup>d</sup> parat<sup>r</sup> fuit

Com. Pleas. fuit ad p̄fat' Festum Sancti Michaelis Archid  
 ac adtunc se obtulit ad solvend̄ p̄fat' B. 20 l.  
 quas ei ad p̄dict' Festum solvisse debuit  
 secundum formam & essecm condicōm ill  
 videlicet apud L. pd' quodqz nec pd' B. nec  
 aliquis al p̄ eodem B. adtunc & ibidem  
 parat' fuerit ad recipiēnd̄ de eodem A. p̄  
 dict' 20 l. Et ulterius idem A. dic̄ quod  
 ipse semp a p̄dict' Festo Sancti Michaelis  
 Archi hucusqz parat' fuit & adhuc existit ad  
 solvend̄ p̄fat' B. pdict' 20 l. & quod ill idem  
 A. hic in Cur' p̄fert' p̄fat' B. parat' ad sol-  
 vend̄ Et hoc, (sc.) Unde, (sc.)

This Plea above is to be pleaded before Imparlane.

Repl. Quod non obtulit, sc. Et Def. (ut prius) dic̄ quod obtulit, and Issue.

*Solvit ad diem* to a Penal Bill.

Actōn̄ non, quia dic̄ quod ipse solvit pre-  
 fat A. sup̄ pdict' 20 diem Maii pdict' 20 l.  
 quas ei sup̄ eodem die solvisse debuit secund'  
 formam & essecum Bille pdict' videlicet apud  
 G. pdict' Et hoc, (sc.) Unde, (sc.)

Repl. Quod non solvit put pd' Def. supis-  
 us allegavit Et hoc pet' quod inquiratur, sc.

Vide antea in the King's Bench.

*Per Minas.*

*Per Dures.*

*Ne unques Executor.*

*Ne unques Administr'.*

*Ne unques Receptor'.*

*Son Assault de mesne.*

*Riens per Descent.*

The same as in the King's Bench, only instead of die exhibitionis Bille, you say, die impetracionis Bzevis, &c.

### Commitment to the Fleet after Judgment.

Et pdic<sup>t</sup> Def. in Mia, &c. postea scilicet  
16 die Nov<sup>th</sup> anno Regni dict<sup>t</sup> Domini Regis  
nunc primo ve*n*d hic in Cur<sup>t</sup> pdic<sup>t</sup> (Def.) in  
ppria plona sua Et sup hoc idem Def. com-  
mittitur Prisone dict<sup>t</sup> Domini Regis de le  
Fleet occasione premiss<sup>t</sup> ibidem moratur quo-  
usq<sup>t</sup>, &c.

See after.

Al' Commitment al' Fleet in exoneration<sup>3</sup>  
Manucaptor, &c.

Postea scilicet (tali die) tunc pr' sequend  
venit hic in Curia pdict W. in ppria plon  
sua Et tam pro indemnitate sua propria  
quam Manucaptorum suorum pet quod ipse p  
Cur' hic committatur Prisone Dom Regis  
de le Fleet occasione Judicij pdict ibidem  
moratur quousq; sc. Et quod idem Manu-  
capt sui de Manucaptione sua pdict exone-  
rentur, sc. sup quo idem W. plens hic in  
Cur' ad petitionem pdict Quer' committitur  
Prisone pdict in Execu p debito & dampno  
pdict in forma pdict recuperat ibidem mo-  
ratur quousq; sc. Et Manucaptor' pdict  
videlic A. B. & C. D. de Manucaptione &  
Recognitioni suis pdict in hac parte fact' p  
Cur' hic plene exonerantur, sc.

## Demurrers.

Note, That the Matters of Demurrers  
are much the same here, as in the  
King's Bench: See after Tit. Demur-  
rer amongst the Special Notes.

## Postea's.

And as to Postea's upon Records after  
Verdict, you have your Record returned  
by the Clerk of the Postea's, and from  
thence carry it to the Prothonotary to tax  
Costs, who gives the Postea to the Clerk  
of the Judgments; and he takes Care of  
continuing the same on the Roll, &c.

See

See in the King's Bench concerning Com. Pleas.  
reversing Judgments by Error.

If the Errors be allowed, the Judgment Errors.  
is made void, and the Defendant may have Restitution.

If the Error be not allowed, then is the former Judgment affirmed.

But observe, That notwithstanding the Reversal of a Judgment, the Plaintiff's Cause of Action is not thereby taken away; but he may bring a new Action against the Defendant for the same Cause, if he will.

### *Non Pros'.*

Entry of a *Non pros'* after Appearance by the Defendant for Want of a Declaration.

ff. A. B. qui tulit bre Domini Regis nunc vers<sup>r</sup> C. D. nup de, (sc.) de placito Transgres<sup>r</sup> sup Casum non est psecut<sup>r</sup> breve sui pdict<sup>r</sup> Ideo ipse & pleg<sup>r</sup> sui de ps sint in mia Quer nomina pleg<sup>r</sup>, sc. Et qd p<sup>r</sup> C. eat inde sine die conz<sup>r</sup> est etia qd p<sup>r</sup> Def. recuper<sup>r</sup> vers<sup>r</sup> pdict<sup>r</sup> Quer dampna sua occone pmis. ad 40 s. eidem Def. p discrecio Justie hic ad requisicio suam p mis & custag<sup>r</sup> suis in ea parte sustent<sup>r</sup> iuxta form<sup>r</sup> Statut<sup>r</sup>, sc. p Cur hic adjudicat<sup>r</sup>, sc.

Upon this drawn up on Paper, Costs are signed by the Prothonotary, as in other Judgments. See before in the King's Bench.

## Of Suing to the Outlawry.

*Vide Abridg.* Stat. Tit. Ju-  
dicial Pro-ceedings. **I**f you intend to sue any Person to the Outlawry, (who is not easily to be taken, and hath not sufficient Estate in the County, whereby to be summoned, &c.) as you may in Trespass, Trespass and Assault, Account, Case, Covenant, Debt, Detinue and Replevin, you must make out a *Præcipe* in Debt, or a *Pone* in Case, Trespass, Assault, Battery, &c. as is before directed, with the Additions of the Defendant.

Stat. 1 H. 5. cap. 5. And this must be carried to the Cursitor of the County where you lay your Action, for an Original.

And note, That the Outlawry (unless laid in London, as most are) will scarce be perfected under Three Terms; because there must be 15 Days or more between the *Teste* and Return of each Writ of *Capias*, *Alias* and *Pluries*; and the Return of the First Writ is the *Teste* of the Second, and so in Order: Also there must be Five County-Days betwixt the *Teste* and Return of the *Exigent*, and on the Fifth County-Day, Defendant not appearing is outlawed.

But in London you may sue to the Outlawry Three Times in the Year, because their Hustings are oftner than their County-Days; and this is the Reason that most lay their Actions in London, in suing to the Outlawry.

Also

Also in a Vacation you may take the Com. Pleas. Benefit of the precedent Term for your Original, and so you may the Term following, provided you bespeak it of the Cursitor within seven Days after the Term begun, otherwise you will lose that Advantage.

Having gotten your Original you may return it of Course thus :

Pleg' de  $\text{p}^{\text{s}}$  } Jches Doe.  
Ricuſ Roe.

You may  
have four  
Names  
in one Writ,

\* Note, If in Case or Infranoiaſ A. nis Trespass, you say, chil het in Bal-  
 $\text{p}$  quod Attach po- lia nra  $\text{p}$  quod  
test. \* sum potest.

Responſ  
T. A. Mif.  
W. H. Mif.  
Wic.

Then you carry your Original thus returned to the Filacer of the County, who thereupon will make you out *Capias*, *Alias* and *Pluries* all together, if your Original will bear it, which you must pay him for, and then get them sealed.

H h

After

Com. Pleas. After this you may return your Capias, Alias and Pluries of Course severally, after this Manner:

|                                      |                                                              |
|--------------------------------------|--------------------------------------------------------------|
| * Naming the Defendants in the Writ. | Infranotat * A. non est<br>Invent in Ballia nra.<br>Respous. |
|                                      | T. A. Mif.<br>W. H. Mif.<br>Vic.                             |
|                                      |                                                              |

Having thus returned all your Writs, you may either carry the Capias and Alias to the Filacer, or keep them by you: But you must next make out a Warrant of Attorney for the Pluries upon a Bit of Parchment after this Manner, for the Plaintiff.

Mich 4 Georgii Regis.

Londoni f. C. D. p[ro]p[ri]o loco suo T. P.  
 Attor[um] suum f[ac]tus A. B. nup[er]  
 de (sc.) Gen de plito Tns  
 gr (or Debt, as the Case is.)

Power.

Next,

Next, you must carry this Warrant of Com. Pleas. Attorney to the Clerk of the Warrants to file it, and then he will stamp your *Pluries*.

After you have thus done, you must carry your *Pluries* to the Exigenter of the County where the Action is laid, who will thereupon make you out an *Exigent* and *Proclamation*, which you must get sealed; and (if in *London*) then you must carry the *Exigent* to one of the *Compters*, and leave it there to be perfected; and your *Proclamation* you must send down to the Sheriff of the County, of which the Defendant is named, to be executed.

At the Return of the *Proclamation*, you must file it with the *Custos Brevium*.

And having got the Return of your *Exigent*, you may carry it to the Clerk of the Outlawries, and he will make you out a *Capias Utlagat* upon it either general or special, the one is against the Body only, the other is against the Body, Goods and Lands; upon which you proceed, &c.

Note, That if it happen that there be not five County-days between the *Tiste* and Return of the *Exigent*, you must be forced to procure another Writ called an *Allocatur*, from the *Exigenter*, to bring in the five County-days; and so it must be in *London*, if it wants a *Husting*.

Com. Pleas. But note, That you may take out your Process in order, and endeavour to take the Defendant upon any of them.

The two chief Terms to commence Suits to the Outlawry, especially for the County, are *Easter* and *Michaelmas*.

If you begin in *Easter-Term* you may procure your *Cap'* and *Alias Cap'* returnable in *Trinity-Term*; and in *Trinity-Term* sue forth your *Pluries*, *Exigent* and *Proclamation*.

In *Michaelmas Term*, you may sue forth the Original *Capias* and *Alias Capias*, returnable the same Term; and a *Pluries Capias* returnable in *Hillary* then next following; and in the same Term procure your *Exigent* and *Proclamation*.

But in *London* you may begin in *Trinity Term*, and the Party may be outlawed in *Hillary* following; the *Hustings* being kept every Fortnight, and the *County-Court* only every Month.

### Of superseding the Exigent, and reverting the Outlawry:

**I**T is ordered, That no Outlawry shall be reversed after the Death of the Plaintiff, *Per Reg' Cur'* unless the Defendant appear and put in *Trin. 2. Ja. 2.* special Bail, [if the Action so requires] to the Executor or Administrator, or to the Husband and Wife, where she whilst a Feme sole, sued the Defendant to an *Out-*

Outlawry ; provided the Plaintiff's At-  
torney to the Writ of Exigent do, with-  
in fourteen Days after Notice to him  
given of the Defendant's Intention to re-  
verse the Outlawry, deliver the Names  
of the Executor or Administrator to the  
proper Prothonotary.

That on every Writ of Exigent which  
shall be sued forth, if a Supersedeas be No Super-  
not put in thereunto, at or before the <sup>the</sup> fedeas after  
Day of Appearance thereof, that no Return of  
Supersedeas shall by any Sheriff be al-<sup>the</sup> the Exigent  
lowed to any such Writ, until the De-<sup>unless Defen-</sup>  
fendant shall have paid the Plaintiff, or Costs.  
left with one of the Prothonitories, the  
full Costs of Suit.

That the Defendant shall before Re- And before  
versal of any Outlawry, or any Superse- Reversal put  
deas made thereunto, put in Bail, if the in Bail, if  
Sum or Damages in the Original be 10 l. 10 l. or a-  
or above, and pay full Cost of Suit to bove.  
the Exigent as aforesaid ; and if the Plain-  
tiff hath extended Goods, &c. of the  
Person outlaw'd, further Costs shall be  
taxed by the Prothonotary, and paid to  
the Plaintiff as aforesaid, before any Cer-  
tificate of Reversal shall be made by the  
Clerk of the Outlawries. *Vide* the Spe-  
cial Notes, Title *Outlawry*.

### *Several Ways of passing a Fine.*

If your Fine be to be taken in the  
Country, you must first draw up In-  
structions for the Cursitor to make a *De-*

Com. Pleas. *dimus Potestatem*, and give him the Commissioners Names at the Bottom, which may be after this Manner :

Lincoln s. P<sup>r</sup> A. B. Gen & E. Tr' es  
sus quod juste. sc. ten C.  
D. Con, sc. de uno Vesua-  
gio uno Gardino cum p*ri*m*in*  
f. Et n*isi*, sc.

De' ps direc' { I. S. Mil.  
T. B.  
R. G. { Gen  
H. V. &  
G. W. }

You must carry this to the Cursitor of the County, and bespeak a *Dedimus*; and you may at the same Time bespeak and have a Writ of *Covenant*; but that is usually let alone till the *Dedimus* is returned.

But if it is to be a Fine of the preceding Term, your best way is to have a Writ of *Covenant* at the same Time, for if the *Dedimus* is not taken and returned in Time, you will be under the Necessity and Expence of Petitioning the Master of the Rolls for a Writ of *Covenant* returnable the preceding Term.

You must send down your *Dedimus* to your Client, with an Endorsement thereon in this Manner, *Executo i*s*ius Comit*on* patet in quadam Schedul' huic Comit*on* annex'*, and the Commissioners sub-

scribe it, you must also write the *Præcipe o. Com. Pleas.* ver upon Parchment, and under that the  Concord as the Nature of the Thing requires with a Caption, and the Cognizor or Cognizors, must subscribe the Concord and the Commissioners the Caption.

When the *Dedimus* is returned, then Affidavit by a Commissioner is made before a Judge, that he knew the Parties, that they were at Age, and of good Understanding, and if a married Woman Cognizor, that she was examined apart and consented; then the Judge's Clerk writes on the Caption, Upon the Oath of A. B. one of the Commissioners of the due Execution of this Fine, let it pass: But if any Interlineations be made in the Fine, or Caption, let the Judge's Clerk take Notice thereof, otherwise it will not pass the Offices.

This *Allocatur* is by a Judge of the Common Pleas; he is paid 4*s*. It is usual to bespeak the Writ of Covenant, (for which you pay 7*s. 6 d.*) of the Cursitor, (by leaving the *Dedimus* and Caption with him) which Covenant you must carry to the Alienation-Office, to be compounded.

After you have compounded it, carry it back to the Cursitor and he will mark how much for the King's Fine.

Next, you must carry your Writ of Covenant to be returned, at the Return-Office, in Prothonotary Borret's Office, for which you pay 1*s. 6 d.* and if it be in London or Middlesex, you must carry him a Note of the Parcels, Buttalls, Signs and Tenants Names.

Com. Pleas. Then next you must make up a Warrant of Attorney for it, upon a Piece of Parchment, after this Manner:

Mich i Georgii secundi Regis.

Lincoln S.

C. D. pō loco suo T. P. ad  
ps' hre de Com' Elus A. V.  
Gelv & C. Ur' ejus de ter-  
ris & tentis in F. (sc.)

Power.

Then you must carry the Warrant of Attorney and Covenant to the Clerk of the Warrants, who will file your Warrant, and sign your Writ of Covenant for 4 d.

Then you must annex your *Dedimus* and Caption to it, and carry it to the *Custos Brevium*, to indorse the Proclamations upon it, for which you pay 3 s. 8 d.

From thence you carry them as annexed, to the King's Silver-Office in the *Temple* to be entered ; you pay 1 s. 8 d.

Till it was entred in this Office, it was not formerly accounted a Fine in Law, but now by a late Resolution it is deemed a Fine in Law from the Caption.

From the Silver-Office you must carry it, as annexed, to the Chirographer's Of-

fice

fice in the *Temple*, for the Indentures to Com. Pleas. be made upon it; where it is left on Record, and the Indentures you must give or send to your Client. Thus it is perfected.

If your Caption is to be taken before the Chief Justice at his Chambers, Before the as it well may, if the Parties be in Chief Justice Town.

Then you must write a *Præcipe* and Concord on Parchment, and another on Paper; to which the Parties must subscribe their Names. Then they must go with you to the Chief Justice, and acknowledge it before him; and you must leave the Paper *Præcipe* with the Judge's Clerk.

Next, you may bespeak your Writ of *Covenant* of the Cursitor, and proceed through the Alienation-Office, Return-Office, Warrant of Attorney Office, *Custos Brevium*, King's Silver, and Chirographer's Office, as before; annexing the Caption to the Covenant, before you carry them to the *Custos Brevium*.

If your Acknowledgment be before At the Ass- another Judge at the Assizes, as it may, <sup>yes.</sup> You leave the *Præcipe* and Concord with the Judge's Clerk, and when the Judge comes to Town you must bespeak of the Cursitor of the County a general *Dedimus*, to be directed to that Judge, and his Clerk will return the Substance of the Concord on the Back of the *Dedimus*.

Then

Com. Pleas. Then you must get a Writ of *Covenant*,  
 and compound it as before, and pass it  
 through all the Offices, as before, with  
 the *Dedimus* annexed, before you go to  
 the *Custos Brevium, &c.*

A Fine from one to one of a Messuage,  
*&c.*

Precipe. *Somus s. Precipe A. B. quod fuisse sc.  
 ten C. D. Con, ac. de uno Mesuagio  
 duobus gardinis virginis acr terre decem  
 acr prati & decem acr pastur cum ptiū  
 in F. & nisi, sc.*

Concord. *Et est Concordia talis scilicet quod pō  
 A. Recogit pōdict tenta cum ptiū esse fuis  
 ipsius C. ut ille que idem C. habet de do-  
 no pōdict A. Et ille remiss & quiet clam  
 de se & heredibus suis pōdict C. & heredi-  
 bus suis imppunit Et preterea idem A.  
 concessit p se & heredibus suis quod ipse  
 Mat pōdict C. & heredibus suis pre-  
 dict' tenta cum pertiū contra ipsum A. &  
 hered suos imppunit Et p hac, sc.*

*Capt & cogid . . . die . . .*  
*Anno regni Domini Georgii*  
*secundū nunc Regis Mag*  
*Brit, ac. primo annos*  
*Domini, ac. eozam —*

By one to two of a Messuage, Lands and Common.

Soms' s. Pr' A. B. quod juste, &c. ten  
C. D. & E. F. Cōw, &c. de tribus me-  
suagiis quinque gardinis centum acr ter-  
re ducent acr bosci & coia pastur pro  
oīodis averiis cum pertiū in G. & H.  
Et nisi, &c.

Et est Concordia talis scilicet qd p̄d' A Recogid p̄dict tenta & coiam cum pertiū esse  
jus ipsius C. ut ille que idem C. & E.  
habent de dono p̄dict A. Et ille rem &  
quiet clānd de se & heredibus suis p̄dict  
C. & E. & hered ipsius C. imppund Et pte-  
rea idem A. concessit p se & heredibus  
suis quod ipsi Warr p̄dict C. & E. & hered'  
ipsius C. p̄dicti tenta & coiam cum pertiū  
contra ipsum A. & hered suos imppund  
Et pro hac, &c.

Capt & cognid . . . die . . .  
Anno Regni Domini Georgii  
secund nunc Regis Magn'  
Brit' primo annoqz Domini  
1727. coizam —

Note, Though there be divers Cogni-  
zees, yet the Right shall be limited to  
one of them only, and the Estate limit-  
ted

Com. Pleas. ted to his Heirs only, whose Right it is acknowledged to be. But if the Cognizees be joint Purchasers, it is said hered' suis instead of the Heirs of one of them.

If a Fine be levied by two, and hereditibus without the Word suis, 'tis said this will be void for Uncertainty in a Fine, as in a Deed.

### From Husband and Wife, of Husband's Lands.

Som's s. Pz' A. B. & C. Ut' ejus quod juste, &c. ten D. E. Conv', &c. de, &c. as before.

Et est Concordia illis scit quod pdic' A. & C. recognit tenta pdic' cum ptiū esse jus ipsius D. ut ill' que idem D. heret de dono pdic' A. & C. & ill' remiser' & quiet clam de ipsis A. & C. & hered' \* ipsius A. pdic' D. & hered' suis imppund' Et pterea iidem A. & C. concesser' p se & they are the hered' ipsius A. quod ipsi War' pdic' D. Lands of the & hered' suis pdic' tenta cum ptiū contra ipsos A. & C. & hered' ipsius A. im-  
Husband or  
Wife, then say hereditibus ppund' Et p hac, &c.  
suis.

From

From the Husband and Wife, of the ~~Wife's~~  
Wife's Lands.

Will &c. P<sup>r</sup> A. B. & C. Ur<sup>r</sup> e<sup>s</sup>us qd  
juste, &c. ten D. E. Con<sup>r</sup>, &c. de (&c.  
as before naming the Parcels.)

Et est Concordia illis scilicet quod pdic<sup>r</sup>  
A. & C. recognit pdict<sup>r</sup> tenementa cum p-  
tin<sup>r</sup> esse ius ipsius D. ut ill<sup>r</sup> que idem  
D. habet de dono pdic<sup>r</sup> A. & C. Et ill<sup>r</sup>  
remiser<sup>r</sup> & quiet clam<sup>r</sup> de ipsius A. & C.  
& hered<sup>r</sup> ipsius C. p<sup>r</sup>fat D. & hered suis im-  
ppum<sup>r</sup> Et pte<sup>r</sup>ra iidem A. & C. concess<sup>r</sup>. p-  
le & hered ipsius C. quod ipsi War<sup>r</sup> pd<sup>r</sup>  
D. & hered suis pdic<sup>r</sup> tenementa cum p-  
tin<sup>r</sup> contra pdic<sup>r</sup> A. & C. & hered ipsius  
C. imppum<sup>r</sup> Et p hac, &c.

Note, Many, to make the Warranties sure  
in Case of a Man and Wife, do first  
make a Warranty from the Husband, as  
before, and then add a Warranty to  
bar the Wife's Heirs thus: (viz.).

Et ulterius iidem A. & C. concesser<sup>r</sup> pro-  
se & hered ipsius C. quod ipsi War<sup>r</sup> tenta  
pdic<sup>r</sup> cum pti<sup>r</sup> p<sup>r</sup>fat D. & heredibus suis  
contra ipsos A. & C. & hered ipsius C. im-  
ppum<sup>r</sup> Et p hac, &c.

When a Fine is from divers, the Fee  
is supposed to be in one of them only,  
if it so be, and the Release and War-  
ranty from him.

But

Com. Pleas. But generally where there are divers Cognizors, the Release is from them and their Heirs: As thus,

(Viz.) From three to two.

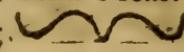
*Et est Concordia filis scilicet quod pdicit A. B. & C. Recogit tenet pdicte cum prius esse suis ipsius D. ut ille que idem D. & E. habent de dono pdicit A. B. & C. Et ille remis & quiet clam de ipsis A. B. & C. & hered suis pflat D. & E. & hered ipsius D. impund. Et pterea idem A. B. & C. conceder p se & hered ipsius A. quod ipsi Warri tenementa pdicte cum prius pflat D. & E. & hered ipsius D. contra ipsos A. B. & C. & hered ipsius A. imppetuum Et p hac, &c.*

Warranty.

If the Warranty be general, you may say, contra omnes homines imppetuum.

Also generally in such Cases of divers Cognizors, they warrant apart, as thus:

*Et pterea idem A. concess p se & hered suis quod ipsi Warri tenementa pdicte cum prius pflat D. & E. & hered ipsius D. contra pdicte A. & hered suis imppetuum Et ulterius idem B. concess p se & heredibus suis quod ipsi Warri tenementa pdicte, cum prius pflat D. & E. & hered ipsius D. contra pdicte B. & hered suis imppetuum Et etiam idem C. concess p se & heredibus suis quod ipsi Warri tenementa pdicte cum prius*

ptim pfat D. & E. & heret ipsius D. con<sup>st</sup>. Com. Pleas.  
tra pdict C. & heret suos imppetuum Et.   
& hac, sc.

And so of the like by these Words, **Et**  
**Pterea**, **Et insvp**, **Et etiam**, **Et ulterius**,  
**Et denique**, &c. and the like.

And Note, That Lands bought of di-  
vers Persons, by several Purchasers, may Several Pur-  
pass very well in one Fine, and then the chasers.  
Writ of Covenant must be brought by  
all the Vendees against the Vendors, and  
every Vendor must warrant against him-  
self and his Heirs only.

And Note, farther, That one Concord  
may be of Lands in several Counties,  
and the Fine & licentia Concord of all  
extracted intirely ; but there must be se-  
veral Writs of Covenant returnable all at  
one Day.

And so if the Lands lie in a Parish  
that extends into leveral Counties, you  
may sue out a **D**ec<sup>r</sup> p<sup>o</sup> from the Cursitor  
of which of the Counties you please,  
but must set forth what Lands lie in  
this County, and what in the other.

The Clerks of the Chirographers Of-  
fice will demand for an Indenture with  
single Warranty, 3 s.

Every other Warranty 6 d.

For a post **Terminum** 6 d.

For a Warranty (though not expressed)  
if there be so many Cognizors, as would  
make one, two, or three more, 6 d.  
per Warranty.

And

Com. Pleas. *And some of them insist upon 6 d. for Expedition of your Indentures, as if usually allowed.*

### An Admission of an Infant to sue by his next Friend.

*S. Concessum est p Cur hic quod A. B. Gen & C. D. Gen consuncim & divisim sequentur p E. F. qui infra etat existit ut prox' Amici ipsius E. G. H. de plito debi.*

This Admission may be to one Friend, and ought to be entered on the same Roll before the Declaration.

The Declaration runs thus :

*S. G. H. nup de, &c. ad respond E. E. de plito (&c.) Et unde idem E. F. p A. B. Gen (qui admissus est p Cur Regis hic ad psequend p eodem E. F. qui infra etat existit (ut prox' amicus ejusdem E. F.) dic quod cum, (&c.)*

Appearance  
Infant.

As an Infant sues by his next Friend, so he must appear by his Guardian or Keeper; and if such Guardian cannot be admitted in Court, or before a Judge at the Assize, then you must bespeak a *Dedimus potestatem* of the Cursitor of the County for Commissioners to admit him *Custodes* to

to answer the Plaintiff de plito, &c. (pro Com. Pleas. ut in narr.) : the like if he plead pro amicum, and he be not otherwise admitted.

The *Caption* to be written on Parchment thus :

Vixitbris Dñi Regis huic Schedule  
anner<sup>r</sup> Nobis & quibusdam W. S. Mit T.  
W. R. W. (et c.) direct<sup>r</sup> 15 die Junii An-  
no Regni dicti Dom<sup>r</sup> Regis primo nos quo<sup>r</sup>  
nomina subscriptibuntur admissim<sup>r</sup> R. S. & T.  
U. Gen<sup>r</sup> Custos J. K. in brevi pdict<sup>r</sup> no-  
minat infra etat existent ad psequend<sup>r</sup> &  
defend<sup>r</sup> loquelam que est coram Justic dicti  
Domini Regis de Banco p breve dicti  
Domini Regis int pfat J. K. & L. M. de  
plito Transg<sup>r</sup> (or debi, et c.) ut dicitur  
secund<sup>r</sup> tenorem ejusdem brevis. In cuius  
rei Testimonium sigilla nostra appos<sup>r</sup> die &  
Anno supradictis.

L. M.  
N. O.

The *Dedimus* must be returned thus on  
the Backside, Crecut istius Com<sup>r</sup> patet in  
quadam Schedule huic brevi annex<sup>r</sup>.

L. M.  
N. O.

These being returned back to you,  
must be carried to the Cursitor to make

I i a Mit-

Com. Pleas. a *Mittimus* and Transcript, which must  
 next be entred on a Roll after this Man-  
 ner.

Entry of *Mittimus* and Transcript of Ad-  
 mission of a Guardian.

Dominus Rex Mandat Justie suis de  
 Banco hic breve suum de *Mittimus* c<sup>lm</sup>  
 unacum tenore eiusdembris de *Deedimus*  
 potestatem de custod admittend & retorū  
 ejusdem necnon custod inde admiss in hec  
 verba Georgius secund Dei Gra' (sc. to the  
 End of the *Mittimus* and Transcript, viz.  
 to the End of the Caption L. M. N. O.)

*Vide post.* in the Special Notes, Tit.  
*Infant.*

A Plea by Guardian. Et pdict J. K.  
 per L. M. (qui admissus est per Cur Regis  
 hic ad defend p eodem J. qui infra es-  
 tat' existit & Guardian (or Custod) ipsius  
 J. venit & defend vim & injur quando, sc.  
 Et dic (sc.) (ut in al.)

Of delivering Declarations to  
Prisoners.

R U L E S to be observed in <sup>Vide the  
Stat. 4 & 5  
W. & M. ann-  
tea.</sup> the Court of Common Pleas, in the Proceedings upon Declarations delivered to Prisoners in Custody in County-Gaols.

First, THAT no Copy of any Declaration shall be delivered to a Prisoner in intention to be Custody until after the Process upon which such Prisoner shall be taken or charged in Custody be returnable. <sup>delivered before the Return of the Process.</sup>

Secondly, That no Rule shall be given for the Defendant in Custody, to appear and plead No Rule to any Declaration against him, until an Affidavit be filed with the proper Secondary, of the Delivery of a Copy of such Declaration, of the Time when, and the Person to whom the same Copy was delivered ; and the Narr is filed Copy of the said Affidavit shall be produced to the Prothonotary before Judgment signed, together with a Certificate from the proper Officer, that no Appearance is entered with him.

Thirdly, If a Copy of the Declaration be delivered before Mensem Paschæ, or Crastinum Anmarum, and Affidavit thereof made and filed ; and the Defendant doth not enter or Craft his Appearance with the proper Officer within <sup>Narr' deli-  
vered before Mens' Pasch.  
Anmar.</sup> ten Days after Easter or Michaelmas Term

Com. Pleas. respectively; Judgment may be entred against him, upon the Certificate as aforesaid, if Rules have been given; but if he doth not enter his Appearance as aforesaid, before the End of ten Days after the Term, he shall imparle until the next Term; unless the Action be in London or Middlesex, and the Defendant be in Prison within forty Miles of the City of London or Westminster; then though he doth not appear before the Expiration of ten Days after the End of the Term, he shall plead two Days before the Essoin Day of the next Term; and in Default thereof, Rules having been given, Judgment may be entred against him as aforesaid.

Narr' deli-  
vered after  
Mens' Pasch'  
or Craft' ani-  
mar', or in  
Hil. or Trin.  
Term.

Fourthly, If a Copy of the Declaration be delivered on, or after Mensem Paschæ in Easter Term, or Craftinum Animarum in Michaelmas Term, or in Hillary or Trinity Term, and the Plaintiff thereupon shall give Rules to appear and plead, if the Defendant enter his Appearance two Days preceding the Essoin Day of the next Term, he shall imparle until the said next Term: But if he does not appear within that Time Judgment may be entred against him as aforesaid.

Fifthly, If the Writ be returnable in one Term, and a Copy of the Declaration be delivered before the Essoin Day of the next Term, the Plaintiff in such next Term may give Rules to appear and plead; and if the Defendant doth not enter his Appearance, and plead by that Time that the Rules are out, Judgment may be entred against him as aforesaid.

Narr' deli-  
vered before  
the Essoin  
Day of the  
next Term.

Sixthly,

Sixthly, If the Declaration be not entered or Com. Pleas. left in the Office before the End of the next Term, after the Writ or Process (by which the Prisoner shall be taken or charged in Custody) be in the Of- returnable, and an Affidavit made and filed fice. in Manner aforesaid, before the End of twenty Days after such Term (Easter Term excepted, and within ten Days after Easter Term) the Prisoner dis- Prisoner shall be discharged upon the entring of charged. his Appearance with the proper Officer, by Writ of Supersedeas made by him, according to the ancient Practice of this Court.

Seventhly, If any Gaoler or Keeper of a Attachment Prison, having received a Copy of a Declaration against Goal- on against any Prisoner in his Custody, shall suppress the same, and not deliver it forthwith to such Prisoner, an Attachment shall be issued against him.

|               |              |
|---------------|--------------|
| Geo. Treby,   | Jo. Powell,  |
| Edward Nevil, | Tho. Rokeby. |

Before you deliver a Declaration against the Prisoner, you must \* enter it with one of the Prothonotarys, otherwise your Proceedings will be irregular. \* If on Bond you pay 1 s. in Case on 3 Narr's 4 s.

If the Defendant be a Prisoner in the Fleet, you enter your Declaration before you deliver it with the Clerk of the Papers of the Fleet Prison, and you are not obliged to take out Process to charge him in Custody there, before you can regularly declare against him, as you must

I i 3 do,

Com. Pleas, do, if the Defendant is a Prisoner in  
 Ludgate, Newgate, or any County Gaol.

The Affidavit of Service may be after  
 this Manner.

**R.** G. maketh Oath, that he did on the 13<sup>d.</sup> Day of June last, deliver a true Copy of the Declaration hereunto annexed \* unto the Defendant E. F. the said E. F. being then a Prisoner in the Prison of Newgate, and this Deponent saith, that the said Defendant was arrested or charged in Custody at the of—and the Suit of the Plaintiff by Process of this Court returnable before the Delivery of the said Declaration.

\* (Or) to the Turnkey or Gaoler of the Gaol Prison, of which the said Turnkey or Gaoler then owned him the said E. F. to be a Prisoner in the said Prison, and that he would deliver the Declaration to him.

Jur<sup>r</sup> — die — Anno primo Georgii secundi Regis coram.

R. G.

This Affidavit and the Declaration thereto affixed, you carry to the Secondary for a Rule to plead, for which you pay him 1 s. and 8 d. and he will keep your Narr', and the Affidavit annexed.

If the Prisoner does not plead before the Rule is out, a Plea being demanded, you may take your Judgment, and if it is an Action on the Case, proceed

ceed to execute your Writ of Enquiry, Com. Pleas. sign your final Judgment, and make out such Writ of Execution as shall be requisite; but if you charge the Prisoner in Execution, you are barr'd from suing forth any writ of Execution against his Lands or Goods, unless the Prisoner escape, be discharged by \* Privilege of Parliament, or † Death, and then the\* <sup>1</sup> *Fac. c. 1.* Plaintiff his Executors, &c. may sue forth † <sup>21</sup> *Fac. c.* new Execution against the Lands, Goods, <sup>24.</sup> &c. as if the Person deceased, &c. had <sup>Ante 148.</sup> never been taken in Execution.

### Of Discharging Prisoners for want of Prosecution.

**I**F a Writ be returnable in *Easter Term*, Prisoner dis- and nothing is done in *Trinity Term*, charged if upon the Prisoners getting a Certificate the Defendant thereof from the Gaoler (that there is no dant does Declaration delivered, or *Habeas Corpus* not declare brought) and likewise getting signed *fiat* <sup>in two Terms.</sup> *Supersedeas* by a Judge, for which he is paid 4*s.* the Filacer of the County will on carrying him the *Fiats*, make a *Supersedeas*, and at the same Time enter an Appearance for the Prisoner, who will thereupon be discharged.

Termino  
Pasch. 8  
Geo. R.

Rules to be observed for discharging Prisoners committed to the Fleet Prison, County and other Gaols, and for discharging Persons rendring themselves, or being rendered to the Fleet Prison, in Discharge of their Bail (by Virtue of Process of the Court) by Supersedeas for want of Prosecution.

If Plaintiff has declared against Prisoner, and proceed to Judgment in three Terms.

Or after obtaining Judgment does not charge the Prisoner in Execution in two Terms, he may be discharged by Supersedeas.

Notice being given to Plaintiff and Oath thereof.

**I**T is ordered, That if any Plaintiff shall declare against any Defendant in Custody of the Warden of the Fleet or of any Sheriff, or other Officer, by Virtue of any Process of this Court, and shall not further proceed to Judgment within three Terms after such Declaration delivered, inclusive of the Term in which the Declaration shall be delivered, the Defendant having appeared.

Or if any Plaintiff having obtained Judgment in this Court in any Action, against any Defendant a Prisoner as aforesaid, and shall not charge such Defendant so remaining a Prisoner in Execution upon the Judgment so obtained, within two Terms next after such Judgment, so had and obtained including the Term, in which the said Judgment shall be signed, then such Defendant so remaining in Prison may be discharged out of Custody, where he shall be so detained by Supersedeas, to be allowed by

not be shewn by the Plaintiff, or his Attorney. Why such Plaintiff had not proceeded before that Time to Judgment, and Execution as aforesaid

said, upon Notice to either of them given by Com. Pleas, the Defendant's Attorney, or Agent, and Oath made of such Notice given.

And if any Defendant shall render himself, If Plaintiff or herself to be rendered to the Fleet Prison, in Discharge of his or her Bail at the Suit of a Plaintiff, where no further Proceedings by Declaration, has been had against such Defendant so rendered before such Render, unless the Plaintiff shall declare against such Defendant within two Terms after such Render. And where any Declaration hath been delivered against such Persons so rendering themselves. Or if Judgment has been had against him, or her before such Render, unless the Plaintiff shall proceed to Judgment upon such Declaration delivered, within three Terms after such Render (the Defendant having appeared) and charge before Render such Defendant in Execution within two Terms after such Judgment obtained; such Defendant may be discharged out of Custody by Supersedeas, to be allowed by one of the Justices of this Court, if Cause shall not be shewn to the contrary as aforesaid, by the Plaintiff or his Attorney, upon Notice to either of them, given by the Defendant's Attorney or Agent, and Oath made of such Notice.

|                          |                         |
|--------------------------|-------------------------|
| P. King.<br>Jo. Blencoe. | R. Tracy.<br>R. Dormer. |
|--------------------------|-------------------------|

Note

*Note,* If you declare in the Court of King's Bench, against a Defendant Prisoner, and he afterwards removes himself to the Fleet, you may proceed on that Declaration, delivered but in order to charge him in Execution, he must be brought up by *Habeas Corpus*.

*Vide* the Stat. 1 *Annæ cap. 6.* & 5 *Annæ cap. 9.* concerning Prisoners escaping out of Custody, taken by a Judge's Warrant, and carried to the next County Gaol.

For which Purpose I have here briefly added, a Declaration in Case against the Sheriff, for suffering an escaped Prisoner to go at large, which seems to be well drawn.

*Narr' par Escape vers' sic sur Escape Warrant.* The Declaration shews Process of Bill of Middlesex, and to what Purpose, The taking the Party thereon by the Sheriff of Middlesex. His being brought by *Habeas Corpus* before one of the Justices of the Common Pleas; his Commitment to the Fleet thereupon, (all set forth very precisely:) And then it was ordered, &c. as follows.



Dictoque J. L. sic in Prisone de le Fleet  
Prisoner existet ac ips<sup>e</sup> eodem B.  
hunc pdic<sup>t</sup> causam Accōn<sup>d</sup> vers<sup>e</sup> eundem  
J. ipse idem B. secundum formam & effec-  
tum Statut in humoi Casu nuper edit &  
provis<sup>r</sup> postea ac infra pdic<sup>t</sup> Terminū Sc̄i  
M. scilicet 16 die Novemb<sup>r</sup> An<sup>d</sup> 3 supra-  
dict<sup>r</sup> assilavit & intravit in pdic<sup>t</sup> Cur<sup>r</sup> Do-  
mini Regis de Communi Banco hic cum  
prop<sup>r</sup> Officiar in ea parte Par<sup>r</sup> suam in  
Accōne pdic<sup>t</sup> vers<sup>e</sup> pdic<sup>t</sup> J. L. Per quam  
quidem Par idem B. implacitavit pdic<sup>t</sup> J.  
de placito trans<sup>r</sup> super Casum pro non  
performat divers<sup>r</sup> promissiōn<sup>d</sup> & assump<sup>r</sup>ōn<sup>d</sup>  
ipsius J. ad solvend<sup>r</sup> pdic<sup>t</sup> denar per ip-  
sum eidem B. sic debit pro predic<sup>t</sup> Bonis  
Mercimoniō & Merchandiz<sup>r</sup> de eodem B.  
empt<sup>r</sup> habit<sup>r</sup> & recept<sup>r</sup> Ad dampnum iussus  
B. 40 l. Idemque B. postea scilicet eisdem  
die & Anno deliberavit vera Copia Par  
ill<sup>r</sup> cuidam T. N. tunc Janitor<sup>r</sup> (Anglice  
Turnkey, or Porter) pdic<sup>t</sup> Prisōn<sup>d</sup> de le  
Fleet videlicet apud L. pdic<sup>t</sup> in Paroch<sup>r</sup>  
& Warda pdic<sup>t</sup> super qua quidem Par in  
Accōn<sup>d</sup> pdic<sup>t</sup> illit Process<sup>r</sup> fuit in eadem  
Cur<sup>r</sup> de B. hic quod Idem B. postea sci-  
licet eodem Termino Sc̄i M<sup>r</sup> his Anno  
3 supradict<sup>r</sup> recuperavit & obtinuit in ea-  
dem Accōne Iudic<sup>r</sup> eisdem Cur<sup>r</sup> de Communi  
Banco hic per quod quidam Iudic<sup>r</sup> Cons<sup>r</sup>  
fuit per eandem Cur<sup>r</sup> hic quod idem B.  
recuperaret dampn<sup>r</sup> sua vers<sup>r</sup> p<sup>r</sup>f<sup>r</sup> J. L. oc-  
cione non p<sup>r</sup>formacion<sup>r</sup> pmiss<sup>r</sup> & Als<sup>r</sup> pdic<sup>t</sup>  
put

Com. Pleas. put p Record & Process' Judicij ill' in  
pdia' Cur de B. hic residen plenius appetet.

Diculqz J. L. post commission & ante-  
quam ipse aliquam solucion sive satisfacion  
eidem B. fec sciit' i die J. Anno 3 supra-  
dia' e pdia' pris' de le Fleet & extra Cus-  
todi tunc Guardian' pris ill' sine license  
& cont' volun' ipsius B. escapiavit & ad larg'  
quo voluit ivit & evasit videlicet apud pres  
Paroch Sci M. in pdict Com' Wm (ipso  
eodem B. de pdict 36 l. seu aliqua inde pars  
cell' adiunc vel adhuc mie satisfact existit  
posteaque scilicet 31 die M. anno Regni  
Dom Regis nunc quarto pdict J. L. sic es-  
scapiat & ad larg' eum sine licent' pdict vir-  
tut' cusiodam Warr sub manu & sigil' po  
R. T. tunc & adhuc un' Justice dici' Dom  
Regis de C. B. hic apud W. exist' fact' per  
ipsum de bo modo secundum form' Stat in  
huoi casu nuper edit & proviz eidem B. ad  
requisit' suam ibidem concess' & omnibus  
Vic Major' Wallis Constabular' Capital'  
Pleg' (Anglice Headboroughs) & Decen-  
nal' (Anglice Tythingmen) in ea parte di-  
rea' juxta form' Stat predict per quen-  
dam — tunc Constabular' infra pdict Com'  
B. existit exequend cui Warrant' ill'  
ibidem deliberat' fuisse exequend debito mos-  
do lea' & recapt' fuit, viz. apud A. in pres-  
dict Com' W. predicto que J. L. sic recapt'  
virtute Warr ill' immediate sciit' eisdem die  
& Anno ult' mense debito modo secund for-  
man & effectum Stat pdict conduct' & com-  
miss' fuit Cti Gaole predict' Com' B.  
apud A. pdia' tunc existit sub Custodi dci  
H. A. tunc Vic ejusdem Com' B. existit  
ibm

ibm remansur sūcta formā h̄at pdic̄ quo Com. Pleas.  
 usque ipse pdic̄ J. L. fecerit plen̄ solucon̄  
 sive satisfac̄on̄ eidem B. vel quousque Iu-  
 dic̄ in Accōn̄ pdic̄ reddit forēt p tpslo eos  
 dem J. L. super quo pdic̄ H. A. tunc Vic  
 pdic̄ Com B. pdic̄ 13 die M. An̄ 4. sus-  
 pradica' existēd pdic̄ J. L. in Custod suam  
 adiunc & ibm cepit ac eund J. in custod sua  
 virtute Warrant' pd ibm huit & derinuit  
 Idemq̄ H. A. Warrant' pdic̄ in pdic̄ Cur  
 Dñi Reg' de C. B. hic de hō modo retor-  
 navit in omnibus execut intrānd & assilānd  
 de Record ac idē Warr in eadem Cur hic  
 de Record intrāt & assilāt exist' put per Re-  
 cord īnde in eadem Cur hic residen plenius  
 apparēt vcoque J. L. in Custod pd H. A.  
 in formā pdic̄ detent existēd idem H. postea  
 scil't i die J. Anno 4 suprad adiunc Vic  
 pdic̄ C. B. existēd pdic̄ J. L. e prison ille  
 ult meni' & extra custod suam ad largum  
 quo voluit libz' & voluntarie evadere & ire  
 pmisit videl'c apud Paroch S̄ci Mark in C.  
 in pdic̄ Com Midd (eodem B. de de hō suo  
 pdic̄ vel de aliqua īnde parcel' tunc vel adh  
 mīe solut sive satisfact' existēd) pdic̄ us-  
 que J. L. seipm ad loca eidem J. B. penit' ig-  
 not elong' & adduc se abscond ita quod pd' B.  
 per nullos legis pcess' eund J. recappe possit  
 Et pinde pdic̄ B. non soium de bm suū  
 pdic̄ verum etiam tot beneficium & advan-  
 tag' secte sue pdic̄ pdidit & amisit Ad dampn'  
 ipsius B. 561. Et īnde produe sectam, &c.

Many Special Notes and  
Observations in the  
Court of COMMON  
PLEAS, taken by an  
Eminent Attorney of  
that Court, and Al-  
phabetically digested.

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Which may be of Good Use to  
Young Clerks.

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*Abatement.*

Several Cau-  
ses of Abate-  
ment.

**C**AUSES of abating a Writ or  
Plaint are, Want of sufficient or  
good Matter; or where it is not  
certainly alledged; Misnomer of the  
Plaintiff, Defendant or Place; Variance  
between the Writ, Specialty or Record;  
Death of the Plaintiff or Defendant be-  
fore

for interlocutory Judgment; Incertainty Com. Pleas. of the Writ, Count or Declaration, another Action depending; and for divers other Causes.

*Vide ante* 249.  
3 Inst. Cler. 5.  
Townsend's  
and Corn-

In all Actions personal, real or mixed, where ~~wal's~~ Tables. either of the Parties die after Verdict, and before Judgment entered; Judgment may notwithstanding be entered, within Two Terms after such Verdict. Stat. 17 Car. 2. cap. 8.

Where there are several Plaintiffs and One Plaintiff one of them dies before Judgment the dies, the Writ Writ abateth: But if one of the Owners abates; *con-* in Ejectment dies, the Declaration is good <sup>tra</sup> in Eject- for the Interest survives, and the Plaintiff <sup>ment.</sup> is living. B. C. 1679.

If the Plaintiff or Defendant die (or both of them die) after an interlocutory, and before a final Judgment, the Action shall not abate, if such Action might be originally prosecuted by the Plaintiff, his Executors or Administrators against the Defendant, or his Executors or Administrators.

If there are Two or more Plaintiffs or Defendants, and one or more die; if the Cause of Action survive to the surviving Plaintiffs, or against the surviving Defendants, the Writ or Action shall not abate; but such Death being suggested upon the Record, the Action shall proceed.

Mr. Livesey told the Lord North, That upon a Plea in Abatement, if the Plaintiff demurs, the Judgment is Respondeat Ouster: But

**Com. Pleas.** But if upon a *Nul tiel Record* (which is a Plea in Abatement) there be Judgment *per defectum de Recordo*, the Judgment is final; for Trial by Record is *quasi* by *pais*, *per tot' Cur'*.

**Plea in A-  
batement  
pleaded in  
Bar.**

A Plea that goes to the Action and not to the Person of the Plaintiff, ought to be pleaded in Bar, and not in Abatement; and if pleaded in Abatement, it may, after a *Respondeas Ouster*, be pleaded in Bar.

**Judgment in  
dilatory  
Pleas.**

Every dilatory Plea, or Plea in Abatement, ought to be certain to every Intent, and if a dilatory Plea be pleaded, and the Plaintiff take Issue upon it, he may conclude with *petit Judicium & dampna*, because there shall be a final Judgment; but where the Plaintiff does not deny, but confesses and avoids such Plea, he must conclude in Maintenance of his Writ. *Mod. Cases 236.*

By Statute 4 & 5 Ann. It is enacted, That no dilatory Plea shall be received in any Court, unless the Party offering the same by Affidavit prove the Truth thereof, or shew some probable Matter, that the Fact of such Plea is true.

A *Fi' Fa'* does not abate by the Plaintiff's Death. *Salk. 322.*

If you would plead in Abatement, or the Privilege of any other Court, as a privileged Person, you must not accept of a general Imparlane; but must either plead the same Term, or else crave a special Impar-

Imparience, which the Plaintiff upon Com. Pleas.  
Request is bound to, if you give him 2s.   
for entring of it. Mich. 1679.

Ac etiam Bille.

THE Statute 13 Car. 2. cap. 2. which enjoins the Certainty and true Cause of Action to be particularly expressed in the Writ or Process, which holds the Defendant to Bail, was the Foundation of inserting the *Ac etiam Bille* in Writs.

It ought not to be inserted in Actions Where *Ac* against Peers, Executors or Administrators, *etiamsi* to be, or in Actions on penal Statutes, nor for any <sup>and where</sup> *not.* Debt or *Assumpsit* under 10*l.* nor in Actions of Account, Render, nor in any Action of Covenant or Trover, unless the Damages are 10*l.* or more; nor in any Action of Trespass or Battery, Wounding or Imprisonment, unless there be an Order of Court for it, or a Warrant under the Hand of one of the Judges of the Court, out of which the Writ issues.

*Actions.*

ALL Actions and Causes cognizable by the Court of Common Pleas come in one of the following Ways, *viz.* First, By Original, as Arrest and Outlawries: Secondly, by Privilege, as Attachment  
**Kk** for,

Com. Pleas. for, or Bills against privileged Persons :  
 ~~~~~ Thirdly out of inferior Courts of Record  
 * Where the Body is in Prison by * *Habeas Corpus*, † *Certiorari*, &c. Fourthly, Out of inferior Courts, not of Record by Supposition of Law. Writ of False Judgment.

† Where the Body is not in Prison. ‡ To remove a Plaintiff out of the County-Court. || To remove a Cause which is there, by Justices, where the Original is directed to the Sheriff, but the Plea depends in another Court—the Removal is by a *Pone* directed to the Sheriff; but if the Original is directed to the Lord or his Bailiff, it is to be removed by *Recordare*. § To remove a Plaintiff out of the Hundred-Court. ¶ To remove after Judgment.

Actions in
B. R.

In the King's Bench the several Ways of Proceeding are, first, by Original Writ issuing out of Chancery; secondly, by Bill grounded upon the Custom of the Court; thirdly, by Attachment of Privilege grounded on the Grace and Favour of the Court; besides divers other Proceedings upon Actions removed out of inferior Courts, by Writs of *Recordare*, *Certiorari*, *Habeas Corpus*, and the like, into the King's Bench.

An express Promise makes a new Action against the Statute of Limitations.

If a Man *infra sex annos* do confess the Debt, the Statute doth not help it, but it must be an express Promise that must give a new Cause of Action; as if a Debt due from Three, and one *infra sex annos* make a new Promise, you must express it in your Declaration, or else it will not avail you. But as to a Brewer, his Action shall be continued from the last Beer delivered; and so of other Trades.

Mich — *W. & M. Pollexfen.*

If

If an Original be filed within six Years, ^{Com. Pleas.} that will save the Debt; but if no Promise be made within six Years after the filing the Original, another Original must be filed within six Years saves the Action.

Action of Debt.

WHERE your Cause of Action is Debt, and requires \dagger Bail, as all do $\ddot{\imath}$ By 12 Geo. where the Sum to be inserted in the Writ ^{Affidavit} is 10*l.* or above, your best way is to take out an *Acetiam Capias*, the Original to which *Capias* is only a bare *Clausum fregit*; and you may afterwards when you come to Judgment, file a new Original to warrant such Judgment, whereas if your *Capias* be Special by *Præcipe quod reddat, &c.* in Case you happen to Mistake either in the Names, *alias dict'*, or Sum, it is pleadable in Abatement, and is not cureable, by filing a new Original afterwards; but you must discontinue your Action paying Costs, and begin *de novo*, or else the Defendant, if he does not take Advantage of it before, may after Judgment (where it is either by Confession or Default) by Writ of Error; so likewise where your Original happens to bear *Teste* before the Day of Payment, where you sue on Bond or Bill.

Action brought for 10*l.* the Defendant brought into Court—this made Affidavit, That there was no more than is now done without Affidavit.

Com. Pleas. than 7*l.* due and prayed that upon bringing the 7*l.* and Costs into Court, Plaintiff may proceed at his Peril; and if he recover no more than 7*l.* that then he may pay the Defendant the Costs (*Concess. per Cur'*) but this must be before the Defendant has pleaded. But now if the Money you pay into Court be 5*l.* or above, you may of Course move the Court without Affidavit; and if the Debt be under 5*l.* the Secondary will, without Motion, grant you a Rule.

By Stat. 4 and 5 Ann. cap. 16. If at any Time, pending an Action upon Bond, with a Penalty, the Defendant bring into Court Principal, Interest and Cost, the Court shall and may thereupon discharge such Defendant.

Action on the Case.

IF upon an *Indebitatus assumpsit*, it appear at the Trial to be Matter of Account, and no perfect Account stated under the Defendant's Hand, the Plaintiff must be non-suit, for he cannot thereby maintain an *Indebitat' assumpsit*; for whilst the Account is current, there lies only an Action of Account, but when the Account is stated under the Defendant's Hand, it then turns to an Action of Debt, or an *Affumpsit* will then lie for the Ballance. *Per N.*

Upon an *Insimul Computasset*, the Day Com. Pleas. of the Account must be proved, and the certain Sum agreed upon, or otherwise the Plaintiff will be non-suited.

An Action of *Indebitatus Assumpsit* brought, and the Statute pleaded, the Plaintiff shews an Original issued in London, in Trespass and Assault, and that he intended to declare on this Action; but others being in the same, it was denied. *Trin' 2. W. & M.*

An Action of Conspiracy against two, and but one is found Guilty, the Plaintiff cannot have Judgment. *2 Roll. 708. Mich. 1689.*

Actions on Statutes.

Upon pleading *Nil debet* upon a penal Statute, the Defendant may give a special Matter in Evidence. *Per Lord North, Mich. 1679.*

Upon the Statute of Robbery, when the Rules to plead are out, you must move the Court before you can sign the Judgment; *per Robinson; sed Contra per Wyrley*; but both agreed that the Court must be moved, in Case of penal Statutes.

The Defendant was arrested on a *Clausum fregit Acetiam* (&c.) and thereupon the Plaintiff declared in an Action *qui tam*: *Per Cur'* the Plaintiff cannot declare so on this Arrest, but must sue out a

Com. Pleas. proper Original, and a Copy thereupon,
 and begin *de novo*.

Action on the Statute 5 Eliz. perverted, and no Costs or Damages allowed
 5 Eliz. for working, being not an Apprentice. must be expressly proved, that he himself did work at the Trade, or else it is no Proof, and you recover 40*s.* per Month, but no Charges — Cardmakers vers'd a French man.

Affidavits.

ALL Affidavits sworn before Commissioners are filed with the Secondary, and Copies of them signed by him read in Court: But all Affidavits sworn in Town before a Judge, or in Court, may be read in Court, before the Filing with the Secondary, and nothing paid for them.

Affidavits ought to express the Addition, and Place of Abode, of the Parties who make them.

Agreement.

IF the Plaintiff's Attorney, and Defendant's Attorney agree to Things in order to their Proceedings in their Clients Cause, which are not manifestly prejudicial; tho' the Clients do afterwards refuse to consent to the Agreement, yet the Court will compel the Performance of it; for as they are

are Attornies, the Law allows them to Com. Pleas. make such Agreement. And if the Client should avoid them afterwards, it would be mischievous in Delay of Justice. *Per Rolle, Chief Just.*

Amendment.

WH E R E Error is in the Process, there the Judges may amend it after Judgment, but if there be Error in giving the Judgment, (*viz.* a wrong Judgment is given) there they cannot amend it, but the Party must bring his Writ of Error, but where the Fault appears to be in the Clerk who writ the Record, it may be amended.

Costs omitted in the Roll, and Error brought and denied to be amended. *B. C. 1675.*

The Attorney's Name left Blank, and amended after Error brought. *Hoyle against Jenning, 6 W. & M.*

The Plaintiff may amend his Declaration in Matter of Form, after a general Issue pleaded, before Entry without paying Costs, or giving Imparlace, but if he amend the Substance, then he must pay Costs, or give Imparlace at his Election; but if he amend after a Special Plea pleaded, then he must pay Costs, although he would give Imparlace. *Per Magistrum Livesey, & alias Clericos.*

Original Writs are not amendable at Common Law.

Com. Pleas.

If Plaintiff amend, Defendant may refuse Costs, and let him amend, the next Term. *Mich. 22. c. Car. 1. B. R.*

and imparl to the next Term. For by so doing the Defendant is at no Prejudice by the Amendment, for if he will, he may imparl to advise upon a Plea, fitting the Declaration so amended, or if there be no Cause to advise, then he may take the Costs, and plead.

If the Plaintiff amend his Declaration, the Defendant may plead *de novo*, for the Amendment may make a good Plea bad.

When a Declaration is come to be in Parchment, the Court can amend no further than is allowable by the Statutes of Amendment, for it is then a Record, but while it is in Paper, the Court may amend at Pleasure. *Salk. 47.*

*Sci' Fac' not
amendable
nor Writ of
Covenant.*

Scire Facias on a Judgment, and by Mistake in the *Scire Fac'* the Plaintiff's Name was put for the Defendant's; held not amendable. *Salk. 52.* A Writ of Covenant held not to be amendable by Common or Statute Law. *Salk. 52.* See Title *Pleas.*

Appearance.

Plaintiff may appear for Defendant, by *Stat. 12 Geo. e. 29.*

IN all Cases where the Defendant is served with a Copy of the Process, the Action requires only a Common Appearance,

pearance ; and if the Defendant neglect to appear, the Plaintiff may within four Days after the Return of the Writ, enter a common Appearance in the Defendants Name, and proceed thereon ; an Affidavit having been first made of the Personal Service of the Writ, and filed in Court.

Appearance in the *King's Bench* is the Defendants Filing either Common or Special in *B. R.* Bail, if the Action be by Bill ; and if it is by Original, then the Appearance or Bail, must be with the Filacer of that County, who issued the Writ.

But if the Appearance be in the Common Pleas, then it must be entered with the Filacer there, but if it be by Bill (as in the Case of a privileged Person) it must then be entered with the Prothonotary.

A Defendant may appear either in *propria Persona*, or *per Attornatum*; but if the Defendant be within Age, then *per Guardianum*. *Shower* 165. If an Infant sue, it must be *per Guardianum*, or *per Proximum Amicum*.

Where the Defendant pleads that he appeared, he ought to conclude his Plea prout *per Recordum inde appareat*. *Cro. El. 466.*

No Bail to be given upon a Bail-Bond, Appearance for that would be Bail upon Bail *ad In- on Bail finitum*. Bond.

Notice must be given to the Plaintiff's Attorney, of the Entrance of an Appearance on a *Scire Facias*.

If

Com. Pleas. If an Exigent be returnable, Cro. *Ani-*
marum; and you allow a *Supersedeas* in
 Appearance ~~by Supersede-~~ Trinity Vacation; yet the Defendant's
~~as.~~ Appearance shall be but from Cro. *Ani-*
marum. *Normansell versus Bickerstaffe*. M.
 7. Wil. 3. 1695.

Arrest.

ALL Arrests upon a Sunday are void
 by Stat. 29 Car. 2. cap. 7. except
 in Cases of Escapes out of the King's
 Bench, or Fleet Prison, by Virtue of a
 Judge's Warrant, by Stat. 5 Annæ.

It is not sufficient for a Bailiff who
 hath a Warrant against a Man, to say,
 I arrest you at the Suit of A. B. Plain-
 tiff in the Writ, but the Officer must
 actually lay hold of him, or touch him,
 otherwise it is no Arrest. Cro. Jac. 486.
 Salk. 79.

A Bailiff cannot justify the Breaking
 open an House, to execute Process for
 a Subject. Cro. Car. 527.

An Arrest in the Night is lawful. 9.
 Coke 65.

An Arrest before the Writ actually sued
 out, is not justifiable by Antedate; and
 it is a Trespass, though a Writ be deli-
 vered afterwards. 3 Keb. 231. 1 Sand. 298.

By Statute 9 and 10 W. 3. cap. 25. Every
 Officer or Clerk in the Courts of
 Westminster, shall set down the Day and
 Year of his signing any Writ of Arrest
 upon

upon such Writ, and duly enter the same Com. Pleas,
on Penalty of 10*l.*

By Custom of the City of London, a Arrest in
Serjeant may arrest the Party without *London*.
the Sheriff's Warrant, if an Action be
entered in either of the Counters; for such
Entry is a Warrant in Law for the Arrest,
and the Serjeants being attendant at the
Counters, may take Notice of such En-
tries.

A Sheriff may arrest in a Liberty with-
out a *Non omittas*, and the Arrest is good;
for the Sheriff is Sheriff of the whole
County, and the Bailiff of the Liberty,
may have his Remedy by Action, for
entering his Liberty. *Per Glyn. Mich. 1658.*

Where the Husband is arrested for the
Trespass, or other Act of his Wife, un-
der Coverture he is bound to appear for
himself and Wife. *Per North, 25 October,*
1679.

Persons arresting others in a fictitious Name,
or without the Consent of the Plaintiff, shall be
imprisoned six Months, and pay treble Cost and
Charges. *Stat. 8 Eliz. cap. 2.*

Arrest of Judgment.

WHEN you move in Arrest of Judg-
ment you must bring your Issue-
Roll into Court.

When you alledge Matters of Fact in General
Arrest of Judgment, the Matters of Fact must Rules for
be arresting
Judgments.

Com Pleas. be proved by Affidavit in Court. 26 Oct.
1679.

For want of
Notice of
Trial.

In Arrest of Judgment in Ejectment, because no Notice of Trial, by two Affidavits, one by the Tenant in Possession, the other by the Attorney. *Concess' per Cur'*.

For want of
due Notice.

In Arrest of Judgment, because the Defendant had but ten Days Notice before the Trial at the Assizes, Mr. Wyrley the Prothonotary said that eight Days Notice exclusive, was sufficient Notice, before any Trial at the Assizes, and that Fourteen Days Notice was to be given only where the Action was laid in London or Middlesex, the Defendant dwelling above 40 Miles distant from London, otherwise eight Days Notice exclusive, to which the Court agreed.

For want of
due Notice
after Chang-
ing the Ve-
nue.

In Arrest of Judgment because the Plaintiff having changed the Venue by Rule in the Treasury, gave not sufficient Notice to the Defendant, after the Venue so changed. *Concess' per Cur'*. to set aside the Judgment, and Restitution was awarded to the Defendant. 27 October 1679.

Motion to stay Judgment on an Action of Trespass, for mean Profits, where the Trial of an Ejectment was by Surprise, where 60 Years Possession was had by Lessee in an Action of Mean Profits, they might have pleaded specially, as *son Frank Tenement: Per Cur'*, they could not help him. *Mich. 1689. Styles vers' Comes.*

Arrest of
Judgment to
be moved in
4 Days.

No Motion to be made in Arrest of Judgment, after the First four Days in Term, by Wyrley, Prothonotary. But the Court

Court did give the Bar a further Day Com. Pleas. to move upon Peremptories; and in Arrest ~~of Judgment~~ in those Causes, whose Names the Serjeants should give the same Night to the respective Prothonotaries in whose Office the Record was.

Ordered, That because there wanted an Alias *prout patet* in the Roll, Judgment should be arrested. *Reed vers' Palmer, Mich. 1689. Pollexfen.*

Because the Defendant before the Trial did tamper with one of the Jury, and afterwards treated them, and allowed to be good Cause to arrest Judgment. *Pasch. Jury.*
Defendant treated the
2 W. and M. Pollexfen, Ch. Justice.

Concluding in an Action of *Assault*, For wrong *contra pacem Dom' Regis* where it should (*per Conclulsion.* Stat. I W. & M.) have been *contra pacem Regni*; Judgment arrested. *Isley vers' Racy.*

Attornies.

IN Executions against *Attornies*, and Proceedings other privileged Persons, where your by Bill and Judgments are on Proceedings by Bill Attachment or Attachment, instead of *Precipimus tibi* in *B. C.* *quod Capias*, you say *Attach'* and make them returnable on a Day certain like your Attachment, and like the Proceedings in *B. R.* by Bill.

If an Attorney be arrested he may put in Bail to the Action, and plead his Privilege before a General Impar- lance.

Motion

Com. Pleas. Motion against the Secondary of the Compter, for not discharging an Attorney upon a Writ of Privilege without Bail : *Per Lord North*, If an Attorney be sued by Process out of an inferiour Court, a Writ of Privilege should be allowed and he thereupon discharged ; but if by Process out of a superiour Court, he must bring his *Supersedeas*, because the superiour Court is of equal Nature with the Writ of Privilege.

It was alledged by the Plaintiff, that the Attorney kept an *Alehouse*, he being asked why he sued out a *Copies* against him, before he forejudged him. Upon this the Prothonotary and the Court said, that he must (and so the Course is) make his Election, whether he will leave of his Trade, or be put out of the Roll.

Forejudger. After an Attorney is called in Court, upon a Bill filed against him in one of the Prothonotary's Office, you must give a Rule, and if he appears not, then he will be forejudged, and you may then arrest him, but if you arrest him before he is forejudged, he may discharge himself by *Supersedeas*.

Utlagat'. After you sue an Attorney by Bill, you cannot have an *Utlagat'* against him after Judgment.

Writ of Privilege. If an Attorney would save an arrest upon Process of one of the Courts at *Westminster* by his Privilege, he must deliver the Writ of Privilege to the Sheriff, and allow it with him (the Fee is 2 s. 4 d.) otherwise

otherwise if the Writ be not allowed, and Com. Pleas. the Attorney be arrested, the Sheriff cannot discharge him upon his Writ of Privilege ; but if the Process be out of an inferior Court, it is a Discharge as aforesaid, and the Plaintiff must sue above.

An Attorney if he plead his Privilege, Privilege it must be *sub pede sigilli.* pleaded.

The want of filing a Bill against an Attorney, is not helped by the Statutes of not filing a *Jeofails*, but *erroneus B. C. 1688.* Bill.

If an Attorney sue for Fees, &c. and lays his Action in *Middlesex*, the Court will not alter the Venue (although the Cause he was employed in, was laid in another County) for the Debt arises in *Middlesex*, where the Records lie, and the Business is done.

An Attorney may chuse whether he will sue, or be sued, out of the County of *Middlesex*, because his Attendance is supposed to be always there. *Trin. 3 W. where. & M.*

An Attorney, being an Executor shall not sue or be sued, as a privileged Person. *Hob. 177. 2 Inst. 157.* Neither shall he have his Privilege in an Action brought by himself and his Wife, because his Privilege is allowed him by the Court, for the Recovery of his Fees. *2 Sid. 157. 1 Vent. 299. Dyer 337.*

Attorney may bring his Action for his Fees, for soliciting in the King's Bench, Court of Exchequer or Chancery.

No Attorney, Solicitor or Servant to any, shall be allowed any Fee given to Counsel, or Money

Com. Pleas. Money given for Copies, to Clerks and Officers of the Court, unless he have a Ticket thereof subscribed by them.

Attorney's Bill to be

delivered to Clients

before Action brought.

Stat. 3. Fac.
I cap. 7.

All Attorneys and Solicitors, shall give a true Bill of all other Charges to their Clients, subscribed with his own Hand, and Name, before such Time as they or any of them shall charge their Clients with any Fees or Charges.

Note, This Bill must be a Bill of Particulars, and by a late Resolution must be delivered before the Defendant is arrested, otherwise the Plaintiff will fail in his Action.

This Statute may be given in Evidence on Non Assumpsit pleaded.

Stat. Limitation not
pleadable to
an Attorney's Bill.

Assumpsit by an Attorney for his Fees, &c. for Money laid out and for Labour, the Defendant pleaded the Statute of

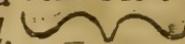
Limitation; on Demurrer to the Plea, it was adjudged ill; for the Statute is not pleadable where the Action is for Fees, because they depend on a Record. 3 Levinz 221.

Warrant of Attorney.

Moved to file a Warrant of Attorney for the Tenant in a Recovery (who appeared by Warrant) after the Writ of Error brought; it seems to the Court, the Warrant was burnt in the Attorney's Chamber by the Fire, 1678. no Certificate to be made by the Clerk of the Warrants, till moved by the other Side.

A Warrant of Attorney to confess a Judgment cannot be revoked by Mr. Wyrley.

If a Man be under an Arrest, and gives a Warrant of Attorney for confessing a Judgment, it will be set aside, unless an

an Attorney of one of the Courts is a Com. Pleas.
Witness to the Execution thereof. *Mod.* 
Cases 85.

A Warrant of Attorney may be filed after a Writ of Error brought, if a *Ne Recipiatur* is not entered with the Clerk of the Warrants:

Attachment.

When a Defendant is taken on an Attachment for Contempt, as for not paying Costs on a Rule, or the like (which Attachments are never granted but on Affidavit and Motion) he gives a Bail-Bond to the Sheriff, and at the Return of the Writ appears not by Attorney but personally in Court, and then enters into Recognizance to appear there *de die in diem*; till the Court shall otherwise determine: Then upon Motion by Counsel, the Court orders, that unless the Adversary exhibits Interrogatories against him within Four Days after Notice, he shall be discharged; the Interrogatories must be filed with the Secondary of that Office it is in; and by him the Defendant must be examined, being first sworn before a Judge to deposite the Truth: After his Examination, the Prosecutor takes Copies of his Depositions; and if he finds all denied, he brings up his Witnesses to prove the Contempt *Viva Voce* in Court, where the Defendant must appear to confront them;

L t and

Com. Pleas. and answer the Questions the Court shall demand (he all the Time kneeling): If the Court judge him guilty of the Contempt, they send him to the Fleet, or else discharge him; if he neglects to appear before the Secondary to be examined, or afterwards before Court upon his Purgation, the Court upon Motion will order his Recognizance to be estreated: If he confess any Thing material in his Depositions, you need not send for Witness, but move on his Confession, and pray the Court's Order thereon.

An Attachment issued against an Attorney going to Judgment without Warrant, the same being a Contempt of the Court; a Conspiracy lies against him, and against the Defendant also.

Attachment
pro Costs.

Where a Man is taken upon an Attachment for Costs, he must pay the whole Costs of the Attachment, besides the Costs before taxed; also that Bail may be given, and ought (if sufficient) to be accepted upon an Attachment for Contempt.

FemeCovert. A Feme Covert taken on an Attachment on Contempt, must answer in Custody if her Husband will not appear for her.

If a Rule be made for Payment of Costs to the Plaintiff or his Attorney, the Costs must be demanded by one of them, for it is not sufficient for another Person (tho' he take the Rule with him) to demand them, for it does not appear by what Authority he makes such Demand, for the Plaintiff or his Attorney ought to

give

give such Person a Letter of Attorney or Com. Pleas. a proper Endorsement on the Rule for receiving such Costs, which he must shew the Party, and by Virtue thereof demand the Costs; and if he refuses to pay upon an Affidavit of such Demand, the Court will grant an Attachment.

Procedendo was moved for ——— upon *Procedendo* on a Foreign Attachment. Lord North, If Attachment. the Bail be put in, the Attachment is dissolved; if the Bail be refused, there must go a *Procedendo* for Want of Bail.

An Attachment where a *Rescous* was returned, and several of the Defendants made Affidavits, that they were not there at the Time of the *Rescous* pretended. Ordered, That an Attachment go against the Bailiff ——— There need no Interrogatories on an Attachment for Rescue, the Court being to judge and set your Fine. *Pasch. W. & M Pollexfen.*

Upon a *Rescous* returned by the Sheriff, you may have an Attachment without Motion.

No Attachment to be granted until a *Nisi Causa* Rule be served. *Trin. 93. Treby.*
Vide postea Declarations.

Audita Querela.

Metcalf versus Lloyd. Mich. 1691. The Defendant in Trinity Vacation was taken in Execution, having before the Time paid the Plaintiff, and had her Receipt;

Com. Pleas. yet ordered, That he must for all that
bring his *Audita Querela*, if he will be relieved.

Bail.

Bail to the Sheriff for Appearance. **W**HERE the Defendant is arrested, the Sheriff's Officer takes a Bail-
Ante 349, 353. Bond for the Defendant's Appearance at the Return of the Writ, and within such Time after the Return as limited by the Rules, the Defendant must put in other Bail above. Bail to the Action, either before Commissioners in the Country, or before a Judge at his Chambers, and these engage to satisfy the Condemnation and Costs, or to render the Defendant to Prison.

One escaping from his Bail a *Sunday*, and confine him till the next may be taken *Day*, and then render him. 6 Mod. 231. on a *Sunday*. The Defendant shall not be arrested

The Defendant shall not be arrested,
nor Bail taken in any Action, unless
the Plaintiff make Affidavit of his Debt.
Stat. 12 Geo.

If the Plaintiff be nonsuit, and afterwards commences a new Action for the same Cause of Action; he shall not have special Bail in the Second Action, though he might have insisted on it in the First.

Bail can be justified only in Court, and the Filazer where the Writ was issued out is to bring with him his Book, for which you pay him 3 s. 6 d.

15

If the Plaintiff proceed on the Bail. Com. Pleas. Bond in Order to stay the Proceedings, you must put in special Bail above, who Staying Pro- ought to justify themselves; you give No- ceedings on tice thereof to the Plaintiff's Attorney ; the Bail- and then you move the Court, or take Bond: out a Summons from one of the Judge's, that upon Payment of Costs, all Proceed- ings on the Bail-Bond may be stayed; and the Court or a Judge will stay the Proceedings, in Case the Plaintiff has not been delayed of a Trial or of ob- taining Judgment against the Principal, and putting the Plaintiff in as good a Condition, as if the Bail-Bond had not been assigned: But this Application must be made before the Rules to plead are out, or Judgment signed against the Bail for want of a Plea.

After Bail above is put in, and the Plaintiff proceeds in the Original Acti- on, the Bail may on, or before the Re- turn-Day of the *Scire Facias*, with a *Scire Feci* thereon, or on, or before the Return of the second *Scire Facias*, surrender the Principal in Discharge of themselves; or if the Principal die before such Time, the Bail are discharged.

The Bail on a Writ of Error must pay the Condemnation, and Rending the Principal will not save them. *Cro. Jac.*

402.

Com. Pleas. If the Plaintiff sue the Bail-Bond, he cannot refuse the same Persons to be Bail to the Original Action; but if the Plaintiff proceed against the Sheriff by Action, if the Amerciaments, he is not compellable to Bail-Bond because those Persons who were Sureties sued. to the Sheriff, to be Bail to his Action.

The same Bail shall serve to the Plaintiff proceed against the Sheriff by Action, if the Amerciaments, he is not compellable to Bail-Bond because those Persons who were Sureties sued. to the Sheriff, to be Bail to his Action.

And the Bail So if a Cause be removed by *Habeas Corpus* out of the *Marshalsea*, or any other inferior Court, and the Bail there offer to be Bail to the Action, here the Plaintiff is compellable, to take them; because he might, but did not except to them below; *aliter*, where a Cause comes hither

Otherwise if out of London, for the Sufficiency of Bail there is at the Peril of the Clerk, and he is responsible to the Plaintiff, so that the Plaintiff had not the Liberty of excepting against them, and the Clerk is not responsible if they be deficient in this Court, though he was in London. *Salk. 97.*

Where the Sum recovered, exceeds the Sum in the *Acetiam*, the Bail shall be liable only *pro tanto*.

Upon a Bail - Bond moved that the Defendant in the Original Action, might be admitted to bring in the Principal Money, Interest and Cost, and denied, because the Defendant was not in Court. *Pascb. 2 W. & M. Pollexfen.*

If no Appearance be enter'd, the Bail-Bond is not discharged, though the Principal render himself to the Officer. *3 Mod. 87.*

Principal
not in Court,
when Bail
Bond sued.

Bankrupts.

PER CUR², No Creditor is bound to give Security against a Statute of Bankrupt, upon an Attachment of Money due to his Debtor; the best way for him, in whose Hands the Money is attached, is to let a Judgment for the Money so attached, be had against him, and that will be for him a sufficient Discharge.

If the Debt be assigned by the Commissioners of Bankrupt, such an Assignment is a good Plea against the Bankrupt. *Lutw. 701.* Vide the Stat.
Assignment by Commissioners.

The Bankrupt's Certificate is no Discharge to the Bail; for unless they surrender such Bankrupt, before the Return of the first *Scire Facias* with Notice, or the Return of the second *Scire Facias* without Notice, they will be charged with the Debt.

If an Action be brought by the Assignees, they are obliged to prove the Debt, on which the Commission was taken out, an Act of Bankruptcy, and the Commissioners Assignment to the Assignees.

Defendant
to have Costs
in all Cases
where Plain-
tiff would
have had
Costs.

Action for
Words.

No more
Costs than
the Sum re-
covered
where the
Debt does
not exceed
40 s. Stat.
43. Eliz. c. 2.

TH E first Statute which gave the Defendant Costs, if a Verdict was found for him, was the Stat. Marl. c. 6.

It is a Rule, that where the Plaintiff shall have his Costs, if he recover against the Defendant, the Defendant shall have his Costs, if the Plaintiff be Non-suit, or recover a Verdict against him, (unless in Case of Executors or Administrators) for which Costs the Defendant shall have such Process and Execution, as the Plaintiff might have had. Stat. 23 H. 8. cap. 15. Stat. 4 Jac. I. c. 3.

By the Stat. 21. Jac. I. cap. 6. If the Plaintiff in an Action upon the Case for Words, doth not recover 40 s. Damages or more, he shall have no more Costs than Damages.

In personal Actions brought in the Courts of Westminster, (not concerning any Title or Interest in Lands, nor for any Battery) if it appear to the Judges of the Court, or be so signified or set down, that the Debt or Damages does not amount to 40 s. then the said Judges shall award for Costs no more than the Sum of the Debt or Damages so recovered, but less at their Discretions.

And for making this Act effectual, it is further enacted by the 22. and 23.

Car.

Car. 2. cap. 9. That in Actions of Tres. Com. Pleas. pass, Assault and Battery, and other personal Actions, if the Jury find the Damages to be under 40 s. the Plaintiff shall recover no more Costs than the Damages so found amount to, unless the Judge at the Trial of the Cause, shall find and certifie under his Hand on the Back of the Record, that an Assault and Battery was sufficiently proved, or that the Free-hold, or Title of the Land was chiefly in Question.

Unless the Plaintiff in a Personal Action declare before the End of the next Term, after Appearance a *Non pros* may be entered, and the Defendant shall have Judgment to recover his Costs. Stat. 13.

Car. 2. cap. 2.

Double Costs shall be given the Plaintiff, where the Defendant brings a Writ of Error, and the Judgment be affirmed. 13 Car. 2. cap. 2.

If Judgment be given for the Defendant, and the Plaintiff bring a Writ of Error, and the said Judgment be affirmed, the Writ discontinued, or the Plaintiff *nonsuit*, then the Defendant shall have Costs.

In Actions of Trespass brought in of the Courts at *Westminster*, where at the Trial the Judge shall certifie the Trespass Wilful and Malicious, the Plaintiff shall recover his Damages and full Costs; not to extend to Executors or Administrators, where they are not at present liable to pay Costs. 8 and 9 W. 3.

Covenant.

Com. Pleas.

No Cost at where the Suit is commenced for the Use of the King. 24 H. 8. cap. 8.

No Cost at the Suit of the King. Where an Executor need not name himself, he shall pay Costs.

The Statute 4 Jac. cap. 3. which gives Costs to the Defendants, extends not to Executors, who sue in *Auter droit*, but where it is for a Conversion, or Tort in their own Time, they shall pay Costs; and it has been laid down for a Rule, that where an Executor brings an Action in which he need not name himself Executor, there if he be nonsuit, he shall pay Costs. Cro. Jac. 361. 229. Mod. Ca. 94. 181. Cro. Car. 159.

Covenant.

Bail on Covenant.

ONE was arrested upon an Action of Covenant, to levy a Fine (he had received 400*l.* and was to have 100*l.* after the Fine was levied) and was committed to the Fleet, till he either found Bail, or levied the Fine according to the Covenant. This was a Special Case, for Special Bail is seldom granted in an Action of Covenant, unless it be to pay the Money.

Debt.

Debt on several Obligation.

ONE may join two or more Debts due upon several Obligations from the same Party, and declare in one Declaration,

claration, upon the several Obligations, Com. Pleas
for there is no Prejudice but rather a ~~curse~~
Favour to the Defendant, by saving him
Expences.

Where Money is paid into Court *per Regul'*, upon a Specialty, the Interest must be paid till that Time.

Upon a Tender of the whole Money, ^{Tender.} due (where the Debt is not by Specialty) before Action brought if the Plaintiff recovers no more than the Money tendered, the Defendant shall have his Costs.

If you intend to plead a Tender, you ^{Uncore} must not take an Imparlane, for after ^{prist.} an Imparlane, you are estopped to say, ^{Uncore} prist.

By the Act 4 and 5 Anne, The Defendant may at any Time, pending an Action on ^{&c.} brought a Bond, with a Penalty, bring into Court ^{into Court.} the Principal Interest and Cost, and the Money so brought in shall be taken in full Satisfaction, and the Court shall give Judgment accordingly.

Debt upon Bond for Performance of Covenants, *viz.* Not to sue the Trade of a Carver, *Per Cur'* it is safer to proceed on the Covenant.

In a Declaration on a Bond, if the Date be mistaken, you must plead Non ^{Date of a} Bond mista-
est factum. Per Wirley. ^{factum.}

You cannot plead *Nil debet* to Debt on a Bond, but the Plaintiff may demur to ^{Nil debet to} a Bond. such Plea.

Payment may be pleaded in Bar to an Action of Debt, brought on a single Bill; or where an Action of Debt or Scire Facias is brought on ^{pleaded to Bonds. Stat.} 4 & 5. An. a Judg- cap. 16.

Com. Pleas. *a Judgment* — Payment may likewise be pleaded in Bar to an Action of Debt on a Bond, conditioned for Payment of a lesser Sum, at a Day or Place certain, if Payment was made before the Action brought, though not strictly according to the Condition, or Defeſſance.

On an Action of Debt on a Judgment. If you bring an Action of Debt upon a Judgment, you shall recover your full Costs, besides the full Judgment; but if you take out Execution upon the first Judgment, then you must pay the Officer and Sheriff's Fees: Therefore where the Defendant is able and will pay, your best Way is to bring an Action of Debt against the Defendant upon the first Judgment.

How to sue an Original where part is paid. If a Bond be for 100*l.* or more, and Part be paid you, to save the Fine (if the Residue be not finable) sue out your Residue only, and declare upon that Original for the whole Bond; but then you must be sure to alledge it in your Declaration *Satisfecit* for so much as is received, and declare only for the Residue. If you do not so, the Defendant may plead the Variance (between the Original and the Bond) in Abatement.

Above 40*l.* is finable. Vide ante 316. **Costs allowed that are expended in Chancery.** An Action of Debt brought on a Bond, and after the Arrest the Defendant files a Bill in Chancery, and gets an Injunction; which is dissolved, and moved, That the Costs in Chancery may be allowed there; Which is granted per Cur^r.

Decla-

Declarations.

All Copies of Declarations, Issues and Demurrers in Actions on Statutes, Debt on Judgments, *Scire Facias*, Prohibitions, Quare Impedit, and Real and Mixt Actions, cost you 8 d. per Sheet: So likewise do Copies of Special Verdicts, and Writs of False Judgment, and all Copies out of the Treasury; and in paying for Copies of Issues and Demurrers in Common and Personal Actions, if in your Plea you have set forth Records, I think you pay 8 d. per Sheet for your Plea only, and 4 d. the rest.

Where a Defendant pays for Copy of Declaration, and the Cause comes the same Term to Issue, he is not obliged in taking the Issue, to take and pay for a Copy of the whole Book, for that were to pay for two Copies of one Declaration in one Term; but he must only pay for a Copy of the Plea and other Proceedings, which are subsequent to the Declarations.

Against several Defendants in one Bond, if the Defendants all appear by one Attorney, he is not bound to more than one Copy of the Condition.

Entring Imparlancess is now almost left off; and indeed since we have so necessary a Way of filing new Originals (which serves as well) 'tis best omitted: For you have many Times Occasion to mend your Declar-

Declarations.

Com. Pleas. Declaration, which cannot so well be done after the Imparlane entred. Besides, If you enter your Imparlane, and happen to have Judgment afterwards by Default or Confession, you are obliged notwithstanding to file a New Original, or else your Proceedings will be vicious; for your Original on which your *Capias* is made, is generally a *Clausum fregit*, which is no Original to warrant your Declaration, and subsequent Proceedings. Now this New Original must be returnable in that Term whereof your Imparlane is entred, which many Times cannot be; for we usually sign Judgment at the End or after a Term, when 'tis too late to bespeak an Original of the preceding Term, and of that Term it must be, or else it will do you no good; because it must antecede the Imparlane; and 'tis not Prudence to bespeak it before you have, or see you shall have Judgment: For if the Cause happen to come to Issue, you have no Need thereof. The want of an Original, as well as of an Imparlane, being no Error after Verdict, altho' the Want of Warrant of Attorney is.

Entered in
some special
Cases.

But where your Proceedings are by Bill, and not by an Original, as against an Attorney, &c. you must, if you give an Imparlane, enter it; and likewise in all Real Actions you must give an Imparlane, and enter it.

Rules to
plead.

In all Causes where you have given Imparlances, you may your self enter Rules to

Vide postea
Original.

to plead in the Common Remembrance, Com. Pleas. without paying any Thing; but where you give no Imparlane, you ought to enter the Rules with the Secondary.

So where the Plaintiff hath mistaken in his Declaration, and the Defendant hath either demurred or pleaded in Abatement to it, the Plaintiff having not joined in Demurrer, may amend and force the Defendant to plead presently upon paying him 13 s. 4 d. Costs, or else may give him a further Imparlane, and pay him no Costs. If the Defendant hath pleaded the General Issue, the Plaintiff may amend without paying Costs before he hath delivered a Copy of the Issue, or afterwards with Costs.

You must shew the Rule of Court, and Tender of tender the Costs thereby ordered to the Defendant's Attorney, upon Amendment of your Declaration; 25 October 1679.

Where a Man arrests and imprisons a Feme-covert, the Plaintiff shall declare against a the same Term, and the Feme shall plead her Coverture in Abatement. *Per Cur'*, upon a Motion.

Where the Plaintiff is nonsuited, and brings a new Action for the same Cause, he must pay Costs of the Nonsuit before the Defendant is bound to plead.

Declarations.

Com. Pleas.

Per Cur', Where the Plaintiff (to save Costs where the Plaintiff Charges) doth not sever his Action, and doth not sever his Act against him, the several Defendants shall have several Costs taxed by the Prothonotaries, and thereupon several Attachments.

Notice of Amendment before Essoin-day.

In Thesaurar' per tot' Cur'. If the Plaintiff's Attorney mistake in the Declaration delivered, and he gives Notice thereof before the Essoin-Day, the Defendant cannot take any Advantage of such Mistake whereof he had Notice, because the Plaintiff may amend it; and it was then ruled, That the Defendant (who had pleaded in Abatement) because of a Mistake, whereof he had Notice before the Essoin-day, should plead in Chief, and should have no Costs.

Affidavit.

Where upon a Special Writ you plead Special Writ. the same Term, you must not pay for the whole Copy of the Issue; but only for so many Sheets as are over and above the Declaration you paid for before. See before.

Delivery on Essoin-day.

The Delivery of a Declaration on the Essoin-Day, is not good to have a Plea the same Term, tho' it be delivered before the Essoin is kept.

Mend, when.

If Demurrer be not joined, the other Party upon paying Costs, may mend by Course of the Court without Motion.

Declaration with Blanks.

If a Declaration be delivered with Blanks, which are only Matters of Form, as for Time

for Time, Place or Name, the Defendant's Com. Pleas. Attorney must call upon the Plaintiff's Attorney to fill them up, and after some reasonable Time the Defendant's Attorney may demur therefore; but if he demurs without such Calling for to have them filled up, the Court will set the Demurrer aside.

Declarations upon penal Statutes, *Qui Narr' on pettam, &c.* are not amendable after Issue joined Stat. &c. ed. 1 Mod. 144.

A Declaration founded on Original Narr' on O-Writ, cannot be amended if the Writ be original not erroneous, because the Original upon amendable, which it is grounded, if it be erroneous, is not amendable.

If the Plaintiff will declare in another Bail liable County than to which the Writ was directed (except in case of a *Testat'*) or in a greater or other Sum than is laid in the Writ upon which the Arrest was, and to which they put in Bail, the Bail shall not be liable:

If the Defendant hath been at no Costs Amendment of Counsel for his Plea, the Plaintiff before Issue joined may by Course of the Court amend his Declaration upon paying his Costs, or giving a further Impar- lance, at this Election: But if the Pleadings be entred on the Roll, there are no Amendments, but he may enter a Discontinuance, and so go on *de novo.* *Trin.* 1690. *Vide postea tit. Plta.*

Com. Pleas. In Declarations either by or against
 Pledges necessary. Attorneys, you must at the End say,

pleg' de pros' scilicet { Iohes Doe.
 Ricus Roe.

But see the Act for Amendment of the Law.

Demurrer.

Where the Conclusion of the Demurrer is in Abatement, and the Commencement in Bar, the Judgment shall be peremptory. *I Lev. 312.*

Judgments
on Demur-
fers.

Where the Defendant either demurs, or is demurred unto, or he joins in Demurrer, if he happen to be over-ruled, he has no *Respondeat Ouster*; but shall be condemned presently, and the Judgment against him is the same as by Default, and Costs allowed. Whereas on the contrary, if it be adjudged against the Plaintiff, he loses his Action, but pays no Costs. And the Court usually, if the Plaintiff desires it, when upon Argument his Default comes to be discovered, allows him Liberty to amend, paying Costs, and orders the Defendant to plead to Issue presently. Where a Demurrer is to a Defendant's Plea in Abatement, if the Plea be found insufficient, he has a *Respondeat Ouster*.

Costs.

And

And so it seems, if the Defendant de- Com. Pleas.
mur to the Plaintiff's Repl' in Abate- 
ment. See before in *B. R.* and see before
Title *Abatement*. Judgment final upon a
defecit de Record sur nul tel Record.

Before Argument the Court upon Mo- Amendment
tion many times allows the Defendant on after Demur-
Payment of Costs to amend his Plea when rer joined.
the Plaintiff has demurred to it, and he joined : So likewise, if he has demurred and the Plaintiff joined, the Court often suffers him to withdraw his Demurrer and plead: But the Court usually in these Cases takes Notice, whether by this Means the Plaintiff has been put by a Trial; for if he has, they will scarce shew the Defendant so much Favour.

Where the Cause of Demurrer is Mat- Where to de-
ter of Law, you are not bound to set mur, and
it out in your Demurrer; but where 'tis where not.
Matter of Form you are. Therefore if a Declaration be faulty, and you think the Plaintiff cannot well find it out, your best Way is not to demur; for then when he discovers his Fault, as of Necessity he must when you set it out, he will amend; but your better Way is to plead a naughty Plea, such as he cannot well take Issue upon; for then if he demurs, the Faule appearing first on his Side, you'll have the Advantage. But see the Act for Amendement of the Law, *ante* 288.

When the Demurrer is joined, the De- Arguing De-
fendant is bound to receive and pay for murrers, and one Book presently; then the Plaintiff ha- Delivering
ving entred it on the Roll, delivers the Roll Books.

Com. Pleas. to the Secondary, in whose Office it's in, and gets a Serjeant to move on it for a *Consilium*, or speedy Day, to be heard to argue it, which the Court grants on the Secondary's Reading the Record: If it be in the Beginning of the Term, it will come on the same Term, otherwise the next. Then the Defendant must receive and pay for two Books more, and the Plaintiff enters the Demurrer in the Court Book with the Secondary of the chief Prothonotary, who sets down on his Rule the Day appointed for Argument, at least four Days before the Day of Argument; the Plaintiff delivers one Book to the Chief Justice, and another to the next Judge, and the Defendant delivers two to the other two Judges, paying with each Book 2*s.* he that demurs argues first: And if the Defendant hath refused to take and pay for his two Books, his Counsel is not to be heard; but the Plaintiff in such Cases delivers all four to the Judges, and is to be allowed it in Costs, whether the Demurrer goes for or against him. The Court hears but two Counsel, that is one of a Side, in one Day, and seldom gives their Judgment the same Day: But if desired by either Party, will hear a further Argument the next Term, unless the Case be very plain.

Amendment. Upon a Demurrer before Joinder, you may amend paying Costs.

No Costs paid on a Demurrer.

If the Plaintiff demurs, and the Judgment be against him, the Defendant hath no Costs; for the Entry of the Judgment is *quod Quer' nil capiat per bre'*. By

By the Course of the Court the whole Com. Pleas. Record shall not be read upon opening the Demurrer, unless it be a Demurrer to the Declaration only; but where it appears upon the Opening to be a Demurrer for Delay only, the Court will hear the whole Record, though there be a Plea, &c. And if they find it only be for Delay, they will give Judgment presently.

See the *Doctrine of Demurrsers*; And *vide ante tit. Declarations.*

Dower.

All Proces in this Action, from the Proces in Summons to the *Venire fac'*, must have five Dower. Returns (whether inclusive or exclusive) between the *Teste* and the Return. In the *Venire fac'*, five Days suffices, *per Stat. 17 Car. N. B.* where a Writ of *Dower* is brought against several Tenants, every Tenant may essoin for himself and give an *Idem dies* to the other, and this is called by Essoin: But in the View your Attornment (though several) shall be one.

You cannot sign Judgment in Dower of Course when the Rules to plead are out; but you must move the Court, and have Rule for your Judgment.

When you cast an Essoin, you pay 10 d. and 4 d. if more Tenants than one for an *Idem dies*, and 4 d. for your Rule to adjourn.

Ejectment.

Delivery of Declarations in Ejectment must be to the * Tenant himself (in Possession) or his Wife, otherwise not good, tho' it be to the Tenant's Son or Apprentice, unless the Tenant doth afterwards acknowledge the Receipt thereof: And of his Acknowledgment there must be made particular Mention in the Affidavit; and a Copy of the Declaration must be annexed to the Affidavit, otherwise not good.

** Per Regul' Mich. 1689.*

If there be No body in the House or on the Premisses, you may seal a Lease of Ejectment. But if you proceed by Delivery of the Declaration, it must be done as above; and not carried into, or left at the House, for it is not sufficient Service.

By the Practice of the Court, the Declaration in Ejectment ought regularly to be delivered before the Essoin-Day of the Term; and if it be a Country Cause, the Tenant has all the Term and Four Days after to appear and plead, before Judgment can be obtained against the casual Ejector; and in the English Subscription you must say, *to appear the next Trinity Term:* But if the Cause be in London or Middlesex, you say in the Subscription *to appear the First Day of next Trinity Term*, and there is a Rule made the 32 Car. 2. *That in all Ejectments in London*

and

and Middlesex, no Rule shall be made against Com. Pleas. the casual Ejector, unless the Court is moved within One Week next after the First Day of Michaelmas and Easter Terms, and within Four Days next after the First of Hillary and Trinity Term. But notwithstanding this, tho' the Times in the above Rule are elapsed, yet the Court will on Motion, grant a Rule against the casual Ejector.

Note, It is said, if a Declaration in London or Middlesex be delivered the First or Second Day in Easter or Michaelmas Term, the Tenant must either plead or the Plaintiff may have Judgment.

You cannot sue out an *habere facias possessionem*, upon a Judgment in Ejectment after a Year and a Day, without first suing out a *Scire facias* to revive the Judgment.

In Ejectment there was a Trial to be at Plaintiff in Bar this Michaelmas Term, and before If. Ejectment sue joined, the Plaintiff died: Motion, dies before Issue joined. That they might make a new Plaintiff. *Per Cur'*, That cannot be by Rule of Court, because by his Death the Action is abated: But the Court advised the Defendant to agree to it. *Mich. 1679.*

In Ejectment a Copy of the Issue sign- No *Habend*'
ed and deliver'd to the Defendant's Attorney, nor Time of
the Time of the Demise was left out, Demise in le
and no *Habend*' in the Declaration, it was
referred to the Prothonotary to examine.
Mr. Robinson said, That the Rule to con-
fess Lease, Entry and Ouster, would help it.

Com. Pleas.

Not to enter into a Rule for more Lands than in Possession. The Court will never compel a Man to enter into a Rule for more Lands or Tenements in the Declaration mentioned, than in his Possession.

Lands than in Possession. In Ejectment, the Defendant moved to put off Trial till *Easter Term*; because his Witnesses being old could not travel.
Trial put off. *Concess. per Cur'*, upon giving Security for the Mesne Profits.

Antient Demesne plead-ed.

The Court was moved to plead Antient Demesne. *Concess. per Cur'*. And let the Party in Possession be made Defendant, and let the Plaintiff deliver a new Declaration, and the Defendant plead within two Days after.

Direction to lay the Demise in an Ejectment, to regain the Mesne Profits.

Per *North*, If the Plaintiff, who really hath the Title, is cast at the first Trial, if he brings it about again, the best Way is to lay the Demise to the Plaintiff, to bear Date before the Demise of the former Action (if he had then any Title) and declare, That the Defendant the same Day *intravit & ejecit*; for by this Means, if he recover, he may bring an Action afterwards for the Mesne Profits, and recover from the Day of the Demise, whereby he will reimburse himself of what Mesne Profits were recovered against him on the former Trial, and to reimburse himself he hath no other Way but this.

To enlarge Demise.

Moved *per Plaintiff* to enlarge the Term of the Demise. *Per Cur'*, We cannot force the Defendant, unless he will consent: But made a Rule to shew Cause.

Let the Mortgagor confess a Judgment Com. Pleas. in Ejectment of all the Lands, &c. inserted in the Mortgage (which Judgment Good Instrument may be defeazanced upon Performance of Conditions upon the Covenants of the Deed of Mortgage. gage, by the same or such like Words as are contained in the Condition of the Bond for Performance of the same Covenants, &c.) and then upon Breach of Covenants you may take out Execution against the Lands — And the Judgment will be good against all Leases that bear Date after the Judgment, and also against all Tenants at Will: But against Tenants whose Leases bear Date before the Judgment, you cannot sue out the Execution; for such Lessees may be relieved by *Audita Querela*, as I suppose. *Sed quære de ceo:* However they have a good Action of *Trespass* for entring upon their Possessions; yet the Judgment will be of such Force against them, as that the Chancery upon setting forth such Judgments by Bill, will force such Prior Lessees to attorn to the Mortgagee, &c. This was a Serjeant's Advice.

If you move to plead Antient Demesne, you must have an Affidavit that the Lands are so.

In Ejectment, Lease, Entry and *Ouster*, is confessed per Landlord, who is admitted Defendant, and Judgment is confessed; moved, That Execution may not go against the Tenants that had no Declarations delivered them, and Day given to shew Cause. *Mich. 1689.* Lord Chief Justice

Com. Pleas. stice Pollexfen; made absolute this Term:
 Hill. 1689.

The Plaintiff in Ejectment is a nominal Person and a Trustee for the Lessor, and his Release is a Contempt.

When to plead, and an Appearance given.

Per North, If the Tenant in Possession give a Warrant of Attorney to appear in Ejectment, he cannot afterwards take Advantage of the not Delivering of a Declaration. — In Judgment against the casual Ejector, where the Tenant being gone away out of the House, locked the Door, and kept the Key. Per Cur^r, In this Case you should have sealed a real Lease of Ejectment at the House. But upon Affidavit of serving the Tenant with a Declaration the first Day of Term, *Judic nisi placitaverit*. Per Robinson, (in Ejectment in London or Middlesex.)

Several Declarations.

In Ejectment moved to put several Declarations in one, because all concerned the same Title. N.B. In these the Lessors were several Persons. Per Cur^r, Where there are several Lessors, you cannot join them; but if in several Declarations the Lessor and the Plaintiff be the same, and the Lands of the same Title, the Court will upon Motion, order them to put all the Defendants in one Declaration.

No Entrance in Narr'. *Dimisisset tenementa 29 die Septemb' habend' a 29 predict'*, no Day laid of the Plaintiff's Entrance. Referred to be examined. Adam's Case. 2 Cro. 96.

In Ejectione firmæ: Cornelius is writ in the Roll and the Record, instead of *John*; and moved to amend, but denied. Hill. I W. & M. Pollexfen, 1690. Tho'

Tho' a Declaration in Ejectment is delivered, yet upon Payment of the Rent and Costs, the Court, or a Judge at his Chambers, will discharge the Proceedings.

Error.

He that brings a Writ of Error, to reverse a Judgment given in a superior Court, by the Stat. 3 Jac. I. c. 8. in all Cases after a Verdict, and in all Actions of Debt by Confession or Default; and in all Actions of Debt upon a Bond, where the Condition is for Payment of Money only, must put in good Sureties to prosecute his Writ of Error with Effect, and pay the Debt and Damages to be recovered, if Judgment shall be affirmed, and such Bail must be put in within four Days after the Writ of Error is allowed.

If you do not approve of the Bail you may except against them, and oblige them to justifie or add better Bail.

But if you bring a Writ of Error upon a Judgment by Inquiry, the Plaintiff in Error in such Case, finds no Bail, and the Defendant in Error must, at the Return of the Writ of Error, get a Rule from the Clerk of the Errors, for the Prosecutor of the Writ of Error, to cause the Record to be transcribed into the King's Bench within eight Days after Notice. Which Rule being served on him, or his Attorney,

Com. Pleas. ney, if the Record be not transcribed at the eight Days End, the Clerk of the Errors signs you a *Non pros'*, but gives no Costs, and then you may take Execution on your Judgment: But if the Record be transcribed, then you employ a King's *Bench* Man to look after it there; and if the Judgment be affirmed, you have Execution out of the Court, and your Increase of Costs taxed there.

No Costs: No Bail to be put in to a Writ of Error upon a Judgment in Debt for Performance of Covenants, or upon a Bail-Bond.

If an Action of Debt be brought upon a Bond to perform Covenants, and Judgment goes by Default without craving Oyer of the Condition: Upon a Writ of Error the Plaintiff in Error must put in Bail, because it does not appear to the Court upon the Record, that the Condition was for Performance of Covenants.

An Executor puts in no Bail on a Writ of Error, neither pays Costs upon the Judgment being affirmed.

Error on a Judgment, and an Act on of Debt pending the Error brought. If a Writ of Error brought upon a Judgment which requires Bail, and Bail be put in to the Writ of *Error* and the Defendant in the Writ of *Error*, (who is the Plaintiff in the Judgment) brings an Action of Debt upon the Judgment, pending the Writ of *Error*, (as by the settled Practice now he may do) no Bail is required to the Action of Debt, but only an Appearance.

If a Writ of *Error* is brought upon a Judgment that does not require Bail, nor no Bail is put in above in the Action, the

Plaintiff in the Judgment may bring his Com. Pleas. Action and hold the Defendant to Bail, ~~and~~ and that Action must abide the Event of the Writ of Error.

No Writ of Error can be brought to reverse a Judgment by Default, before a Writ of Enquiry is executed, for the Default is but an Interlocutory Judgment, but the Verdict of the Jury, and Judgment of the Court, is the final Judgment on which the Writ must be brought.

In a Writ of Error, in Ejectment, no other Bail is required than the Plaintiff's own Recognizance, for it is only to answer the Damage, and the mesne Profits (the same Practice is in the King's Bench). But this was adjudged in the Common Pleas after several Motions for other Bail, and upon reading the Statutes, whereby Bail is given; *Per Lord North.*

Upon a Motion, that a Writ of Error was brought in Ejectment in the Casualment with-
Ejector's Name, without his Knowledge, out the upon a Judgment against him; thereupon a Knowledge Plaintiff in the Writ of Error shew Cause why he should not pay Costs.
In Eject-
al Ejector.

N.B. The Casual Ejector made an Affidavit, That he knew nothing of the Writ of Error.

A Writ of Error is a *Supersedeas* to an Execution (not begun) as soon as allowed without Notice. *Salk. 321.*

Against

Of Executors and Administrators.

Executors and Administrators may appear and plead to a Scire Fieri and Inquir'. Against an Executor or Administrator, after you have a Judgment by Default or Confession, you can have no *Fi' Fa. de bonis propriis*, no Execution of his Body, till you have first had a *Fi' Fa' de bonis Testatoris*, returned *Nulla bona*; after which there must go out a Writ of *Sci Fa' & Inquir'*: To which Writ, after it is executed by taking an Inquisition of 10*l.* Assets come to the Defendant's Hands, and concluding that the Defendant *devastavit* so much, he may appear and plead *plene Administravit, absque hoc quod devastavit*; which amounts to no more than a general *plene Administravit*, which he might have pleaded the first Time; by which Means 'tis very long e'er Plaintiffs in such Cases can recover, and very chargeable, and no Charge allowed after the *Scire Fieri & Inquir'*, whatever Proceedings happen to be subsequent: So that a Man had better lose a small Debt, than sue an Executor or Administrator who intends to be troublesome. This way of Proceeding hath not been long in Practice: The old Way was, That the Sheriff return a *Devastavit* on the *Fi' Fa'*, and the Plaintiff had forthwith Execution *de bonis propriis*; but the Sheriff being often sued for such Return, as false, this Way was thought on as better; because here the *Devastavit* being found by the Jury, no Action lies against them; besides the Defendant might traverse it, if he pleases. *Vide postea.*

Execu-

Nota.**The old Way.**

Executor acknowledges Satisfaction on Com. Pleas. a Judgment in Court ; the Secondary, after Sight of the *Probat*, entred Satisfaction. but you must bring your Letters of ^{Satisfaction.} ~~ed.~~ Administration into Court.

An Executor is before Probate entitled to receive all Debts due to the Testator ; and all Payments made to him are good and shall not be defeated, tho' he dies and never proves the Will. An Executor may commence an Action before Probate, but cannot declare ; but an Administrator cannot bring an Action before Letters of Administration are granted to him.

Execution against Executors set aside, Execution and Restitution had ; because the *Scire Fac'* against the Executors bore *Teste* before the Death of the Testator. set aside upon a *Sci' Fac'* *Fi' Fa'* and *Inquir'* how.

Upon a *Plene Administravit*, the Assets and where. (if you go to Trial) must be proved and found before the Judge, upon Evidence ; but if Judgment go by Default against an Executor or Administrator, then the Assets must be proved before, and found by a Jury upon a *Fi' Fa'*, *Sci' Fa'* and *Inquir'*, sued out after the Sheriff had returned *Nulla bona* upon a *Scire Fac' de bonis Testatoris*, which must in such a Case be sued out —— Lord North said, That if Assets be found on a *Fieri Facias*, *Scire Facias* and N. B. *Inquir'*, the Sheriff must return a *Devastavit*, according to the Value of the Assets found : And if the Defendant traverses the *Devastavit*, the Issue is thereupon ; and though the Question at the Trial is, Whether Assets, or no Assets ? (If Assets be found, yet the Jury shall find it a *Devastavit*

Com. Pleas. *vastavit* :) And if the Sheriff return a *Devastavit sur Fieri Fac' de bonis Testatoris* (which he will do, if the Plaintiffs will give him Security to save him harmless for it) the Defendant cannot traverse it; but if the *Devastavit sur Inquisition* taken by a Jury on a *Fieri fac'*, *Scire & Inquir'*, the Defendant may traverse the *Devastavit*; and the Reason is, because if the Sheriff himself makes a false Return, the Defendant may have his Action against him, which he cannot have upon a *Devastavit* returned *per Inquisition*.

Upon *Plene Administravit* pleaded, the Plaintiff must prove his Debt, or else he will have but *i d.* Damage, though there be Assets, that all sperate Debts, mentioned in the Inventory, shall be accounted Assets, for it is as much as to say, they may be had for demanding, unless the Demand or Refusal be proved, therefore it is very proper (if no Inventory is exhibited) to cite the Executor or Administrator to exibit an Inventory of the Deceased's Estate and Effects, that the Plaintiff may be informed of the Nature and Value thereof.

An Administrator in pleading Judgments with Penalties, ought to shew how much is due. And in pleading several Judgments, if any one be ill pleaded, or found fraudulent, the Plaintiff shall have Judgment.

Force the
Sheriff to re-
turn a *Deva-*

vastavit. Upon a *Plene Administravit* pleaded, if the Jury finds Assets, the Sheriff upon View of the Verdict (shewn to him by the

the Plaintiff) must, upon a *Fieri Facias* Cōm. Pleas. against the Defendant *de bonis Testatoris*, return a *Devastavit*: If he refuses, and will only return a *Nulla bona*, you may (as I suppose) move the Court, and they will force him to it; *tamen quere*.

Sed vide Pettifer's Case, 5 Co. 32. *Fieri Fac' de bonis Testatoris, Nulla bona* returned, then Special *Fieri Fac' de bonis Testatoris, Et si sibi constare poterit*, that the Executors have wasted them, then *de bonis propriis*: And it there seems, he ought not to make Inquiry by an Inquest.

And see Siderfin, 397. That the Practice is more nimble than by tedious Inquisitions, by bringing an Action in the *Debet & detinet* against an Executor, suggesting a *Devastavit* in the Declaration without any Return of the Sheriff.

If a Judgment in Debt is recovered a- Where Debt against an Executor, who after the Judg- lies against ment, wastes the Testator's Effects, to the an Executor Value of the Debt recovered, Debt lies in the Debt against him in the *Debet and Detinet.* 1 and Detinet. Saund. 218, 219.

If it be found that the Executors *ven- diderunt, &c.* they shall be charged *de bonis propriis*, although there is no *Deva- stavit.* 2 Saund. 403.

Execution on a *Fi' Fa'* in the Life of the Testator, gives a Right to the Executor. Salk. 12.

Exigents and Outlawries.

Superseding. If you are suing the Defendant to Outlawry, (which you cannot by *Acetiam*) if he thinks fit, he may appear before he is returned outlawed, without Bail, be the Debt never so great, by superseding the Exigent, and paying the Plaintiff's Costs; and after he is returned outlawed, and the Exigent filed, in case the Proceeding be by *Clm' fregit* (as the usual Course is) he may reverse the Outlawry without Bail, he paying the Plaintiff's Costs as aforesaid, and his own Charges of the Reversal, which are above 40*s.* more; however, all Things considered, if the Defendant can be arrested, I take it to be the best Course to proceed by Arrest.

Outlawry after Judgment. If you have Judgment against a Man that lurks in several Counties, in Regard you cannot have Execution against him in more Counties than one at one Time, the best Way is to sue him to Outlawry after Judgment, for then you may take out as many Writs of *Capias Utlagat'* against him as you please, and this for small Charge; besides it saves you the Charge of reviving the Judgment by *Scire Facias* after the Year. You have an Exigent immediately after the Return of the *Ca' Sa'*, without an *Al. Pluries* or Proclamation: And that is by *sling* out a *Ca' Sa'* for the Debt

Debt and Costs, and a *Non inventus* return. Com. Pleas.
 ed by the Sheriff, then an *Exigent* to be
 made by the *Exigenter* of the County
 where the Action was laid, and to be re-
 turned by the Sheriff: Then you may sue
 out *Cap' Ut'l'* into as many several Coun-
 ties as you will, either in *England* or *Wales*,
 General or Special; and if he be taken he
 cannot be discharged without Satisfac-
 tion to the Plaintiff, or Pardon of the
 Outlawry; or Reversing the same by suf-
 ficient Error found.

If an Outlawry be reversed, the Plain-
 tiff may declare upon a New Original, in
 another County than that where the
 Action was first laid. 3 *Lev.* 245.

Moved to discharge the Defendant, be- Feme covert
 ing a Feme Covert, and in Execution up- in Custody.
 on Outlawry after Judgment. N. B. The
 Defendant was outlawed before Coverture:
Per North, Help your self as you can; and
per tot' Cur', We will not discharge her till
 the Monies are paid. If a Feme covert
 be in Custody upon Outlawry before
 Judgment, and the Husband will appear
 for her, then the Feme shall be discarg-
 ed; *per tot' Cur'*. See after.

Where the Defendant is outlawed before Judgment (if it be by Special Process) he must upon his Appearance put in Bail to the Value of the Debt and Damages, and not only for his Appearance to the Action, 31 *Eliz.* quod nota. Per Lord North: If Attornies would observe this, and sue Special Writs, it would prove a great Ad- vantage to their Clients. cap. 3.

Com. Pleas. If the Defendant appear on the *Exigent*, he must pay all such Costs as the Prothonotary shall tax. — If a Co-executor be outlawed, and one appear, you declare against both, and shall have Judgment against both; but Costs only against him that appeared.

Prisoners outlawed.

If you outlaw a Man that you know is a Prisoner in the Fleet, you shall have no Costs, and reverse the Outlawry at your own Charge; because, as the Practice is now, you should bring him to the Bar by *Habeas Corpus ad respondend'*, and charge him there by Prothonotary. Before a *Habeas Corpus ad respondend'* was given by Stat. if a Prisoner of the Fleet would not appear, you could not force him, and then you only was to outlaw him.

Ex' fa' a- Moved *pro Quer'* against the Sheriff of London, for not returning an Exigent against a Privileged Person. — Counsel *pro Vic'* against the Defendant. — Counsel *pro Vic'* insisted, that the Defendant at the Time of the Return of the *Ex' fa'* was privileged by the King, and had his Privilege allowed and filed in their Office, and that they could not now return it, tho' the Privilege was now out, without Breach of Privilege, because the *Ex' fa'* was returnable in Privilege-time; and must be returned as of that Time: *Quer'*, That is now no Matter; and *per Cur'*, Let the Sheriff make a Return by Wednesday next, on Pain of 100*l.*

Appearance on Outlawries.

Where more than one are outlawed in one Writ, if an Attorney reverse it not as

as to all, but as to one, he shall be forced ^{Com. Pleas.} to appear but for one.

Where the Defendant is well known, Plaintiff's and lives near the Plaintiff, and is sufficient, and may be arrested; if the Plaintiff outlaw him, he shall upon Complaint by Motion reverse at his own Charge; *Quære postea.*

If the Plaintiff sues in an Inferior Court, Not pay and after outlaws the Defendant for the Costs of an same Cause of Action, and the Defendant is thereon taken, he shall not pay the Costs of the Inferior Court.

A Feme-covert taken upon an *Utl'*, shall Feme covert be discharged upon bringing a *Supersedeas*, and entring only an Appearance.

Affumpſit upon a Bill of Exchange, the Pleading Defendant pleads Outlawry in Bar, and Outlawry good; because the Debt is certain, although to be recovered in Damages; and it is forfeitable by the Outlawry, as well as Debt upon a Simple Contract. *3 Lev.* 29. But where there is no Debt, nor any Thing to be forfeited, but Damages only to be recovered, as in Trespass, *Trover*, &c. there it must be pleaded in Abatement only.

Moved by Serjeant *Levinz*, That the Outlawry might be reversed at the Plaintiff's Charge, the Defendant being every Day in the Plaintiff's Company, they being both Captains; but denied, and ordered an Action of the Case to be brought against the Plaintiff, if the Defendant thought convenient.

An Action of the Case ordered for Outlawing a Person well known.

Com. Pleas.

Special Cap
Utl.

After you have taken out a Special *Capias Ut'p*, for which you pay with Seal 2 s. 7 d and for Warrant thereon 5 s. and the Sheriff for taking an Inquisition of the Goods, Lands and Chattels of the Defendants, 1 l. 13 s. the Inquisition is to be returned into the Exchequer.

Upon a *Supersedeas* to an *Exigent*, your Appearance is but at the Return of the *Exigent*; and you are not bound to receive a Declaration before then. *M. 7 W.*

3. Normansell versus Biggerstaff.

To an Action in *B. R.* on a promissory Note, the Defendant pleaded the Plaintiff was outlawed in *B. C.* the Plaintiff replies, *nul tiel Record*, and a Rule was given to bring the Record into Court; in the mean time the Plaintiff reversed the Outlawry, in this Manner: (That Debt being satisfied,) Affidavit was made that the Debt was paid, and upon the Plaintiff's Attorney in the Outlawry consenting before a Common Pleas Judge, one of the Prothonotaries Clerks, by Order of the said Judge, entred up the Reversal of the Outlawry; and the Plaintiff obtained his Judgment.

Habeas Corpus.

Habeas Corpus and Disstringas sur Cepi, on an Attachment.

*A*LL Writs of *Habeas Corpus* and *Disstringas* after *Cepi* returned on Attachment of Privilege, are made by us, and signed by the Prothonotary, who signed the Attachment; but all such Writs upon other

other Process are made and signed by the Com. Pleas. Filacer, who made out the Cap'.

When a Cause is removed by *Habeas Corpus*, out of an Inferior Court, at the Return of the *Habeas Corpus*, the Plaintiff must give a Rule for the Defendant to put in Special Bail within four Days after Notice; which if the Defendant fails

to do, having been served with the Rule, you may have a *Procedendo*.

If Bail be put in, the Plaintiff hath 20 Days to except against it if he see Cause, within which Time

he must have Notice of it; and if he makes no Exception within the 20 Days End, it

stands absolutely, and the Plaintiff must file his Original, and declare within two

Terms after the Bail put in, or else the Bail

is not liable: If the Plaintiff except against the Bail, he must have a Rule granted and signed by the Judge, who took

the Bail to serve the Defendant's Attorney with, that unless better Bail be put in by a Day, the Plaintiff shall have a

Procedendo. To remove Causes before Judgment out of Inferior Courts not of Record, you have these three Writs made by the Cursitor; A *Recordare* to remove the Plaintiff out of the County-Court; A

Pone to remove a Cause which is there by Justices; and an *Accedas* to remove a Plaintiff out of the Hundred-Court; and each Writ expresseth which Party 'tis that brings it, whether Plaintiff or Defendant. The *Recordare* and *Accedas* in all Actions but Replevin, are to be filed by the Prothonotary; and in Replevin with the Filacer,

Proceedings after Removal per

Hab' Corp'.

Procedendo;

put in Special Bail within four Days af

vide Attach-

ment.

Causes re-

moved out of

the County

or Hundred-

Court.

Com. Pleas. when the Plaintiff brings the Writ, which is seldom; but in Replevin he must see if the Defendant hath appeared; if not, he must sue out a *Pone* from the Filacer, and with the Sheriff return Issues: Then you have a *Distringas*, and so *Alias & Pluries Distringas ad infinit'*, till he does appear; and after Appearance, you declare and proceed as in Causes after Arrest. If the Defendant brings the Writ in any other Action but Replevin, he must be sure to file it, and enter his Appearance with the Prothonotary with all possible Speed, to prevent a *Procedendo*. After the Writ filed, and Appearance entered, you give a Rule with the Filacer for the Plaintiff to declare; and if he refuses when the Rule is out, you enter *Non pros'*.

See Statute
about *Non
pros'*. &c. Stat.
17 Car. 2.
cap. 7.

Mr. Townsend was of Opinion, No Costs ought to be given on such *Non pros'*; but Sir Thomas Robinson did once tax me 40*s.* 8*d.* on one, though I question whether allowable by the Statute; I think in King Charles the second's Reign. In Replevin, if the Plaintiff, (*viz.*) he whose Goods were taken, bring the Writ, and after filing it with the Filacer, he takes out a *Pone* as above, to force the Avowant to appear, and after Appearance declares; then the other avows, &c. proceeding till Issue or Demurrer; but if the Avowant, (*viz.*) he who took the Cattel, bring the Writ, in Case; after it is filed with the Filacer, and the Rule to declare entered with him be out, no Declaration comes in, the Avowant has a *Return'*

turn' Habend' made by the Filacer: The Com. Pleas. Proceedings whereof you will find in the Compleat Attorney.

To remove after Judgment out of Inferior Courts not of Record, you must bring a Writ of false Judgment; and when of the County's returned, file it with the Prothonotary, and enter the same with the Errors assigned on a Roll; then deliver a Copy to the Attorney on the other Side, who will be sure to appear thereto, in order to obtain the Fruits of his Judgment: Then he that had the Judgment below (but is the Defendant in this Writ) must get a Serjeant to move on the Record, maintaining the Judgment against the Errors assigned, and praying a Writ *de Executione Judicij*; which if granted, and then the Judgment affirmed, yet he recovers no Costs, nor doth the Plaintiff in the Writ recover any, if he appears to reverse the Judgment. I know not what Fees Sheriffs and County-Clerks usually take for Removals on *Refalo'*, *Pone*, and Writs of False Judgment; but I have paid upon Removal by *Accedas* out of an Hundred-Court, as follows, (*viz.*) To the Cursitor ^{Charge of the Removal is 1 l. 1 s.} _{8 d.} *pro Accedas* in Replevin, 2 s. 6 d. in all other Actions 9 s. 2 d. for the Sheriff's Warrant thereon to the Steward 2 s. paid the Steward for returning the Plaintiff 6 s. 8 d. four free Suitors 1 s. apiece, to the Bailiff 2 s. and to the Sheriff for returning the Writ 2 s. the like Fees on a Writ of False Judgment.

Com. Pleas. Where the Body is not in Prison by Supposition of Law, an *Habeas Corpus* is not the proper Means to remove the Cause, but a *Certiorari*.
 Where *Habeas Corpus* is not proper.

Hab' Corp' ad satisfac' a- An *Habeas Corpus ad satisfaciend'* (against a Man already in the Fleet) deliver'd to the Warden of the Fleet, is sufficient to charge him in Execution.
 gainst a Pri-
 soner.

Upon a *Habeas Corpus* out of the Common Pleas; if the Process of the King's Bench be returned; the Common Pleas cannot take Bail to the Action in the King's Bench; but they must bring an *Habeas Corpus* out of the King's Bench, and thereupon take Bail in the King's Bench.

No Writ to remove a Suit commenced in an inferior Court shall be obeyed, unless delivered to the Steward of the Court before Issue or Demurrer joined, so as the said Issue or Demurrer be not joined within Six Weeks after the Arrest or Appearance of the Defendant. 21 *Ja. I. c. 23.*

A Suit shall never be removed again, after a *Procedendo* allowed.

A Suit where the Demand does not exceed forty Shillings, and in the Marshal's Court *5 l.* nor where the Freehold, Inheritance, Title of Land, Lease or Rent is concerned, shall not be removed.

Infant.

Where an Infant is to demand or gain, Infant ad-
he may sue by Guardian or *Prochein Amie*; mitted.
but where he is to defend a real or per-
sonal Action, it ought to be always by
Guardian; and to either he may be ad-
mitted by the Court in Term-Time, or
by any Judge at his Chambers, then, or
in the Vacation (the Infant being present)
else by Commissioners, by Virtue of a
Dedimus from the Cursitor, which costs
you 17 s. 6 d. which *Dedimus* when return-
ed must be filed with the Cursitor, who
makes you a *Mittimus* and Transcript
thereof, which you enter on the Roll.
Also it is said, he may be admitted by a
Judge at the Assizes.

It is Time enough to admit Guardian Admitted be-
or *Prochein Amie* at any Time before De- fore Decla-
claration be delivered. ration deli-
vered.

If an Infant give a Warrant of Attor-
ney to confess Judgment, though it be
enter'd up after he is at Age, it is void.

An Infant shall not be bound for any
Thing, but for his necessary Meat, Drink,
Apparel and Learning; neither shall his
Covenant for Binding himself an Appren-
tice, oblige him, unless by special Custom. *Cro. Jac. 494.*

Where Debt or Case is brought against
an Infant for Necessaries: *Infra Etat'* is a Plea by In-
good Plea, to which the Plaintiff must re- fand.
ply the Goods sold were necessary *gradu de-*
fendentis

Com. Pleas. *fendentis requirente*, and upon the Trial the Question will be, Whether the Goods sold, were for the Defendant's necessary Use, or not?

If one under Age enter into a Bond, and says, he is of full Age, tho' he may avoid it by his Plea of *Infra etat'*, yet you may prefer an Indictment against him in the Crown-Office for a Cheat.

An Infant may plead the General Issue, *Non Assumpsit*, and give his Infancy in Evidence at the Trial. Although an Infant cannot be sued for any Thing, but Necessaries, yet a Commission of Bankrupt may be sued out against an Infant, he having committed an Act of Bankruptcy.

If an Infant under Age borrows Money, and afterwards at full Age, promises to pay it, it is a good Consideration, and he will be charged.

Breve de Inquirendo.

In Causes in London or Middlesex.

Notice.

If the Defendant lives not forty Miles Distance, Eight Days Notice to execute an Inquiry, sufficient; but if more, it must be fourteen Days Notice.

By Rule of Court, Hill. 6 Georgii.

Where the Plaintiff concludes *ad Patriam*, and gives Notice of Trial on the Back

Back of his Pleading; if the Defendant ^{Com. Pleas.} does not join Issue on such Plea, before the Rule is out; in such Case, after Judgment obtained, the Defendant's Attorney shall accept of Notice of executing a Writ of Inquiry from the Time that Notice of Trial was given.

An Inquiry executed without Notice *Sur breve de* to the Defendant, the Court, on an Af. *Inquir'*, No-fidavit of no Notice, will set aside the In-^{tice to be} quiry. ^{given.}

An Inquiry was executed by Surprize Upon Sur-contrary to Promise. *Per Cur'*; All Pro-prize. ceedings shall be stopt, and Notice to be given of this Motion. *Mich. 1679.*

To stay signing Judgment on an Inquiry. *Per Cur' concess.* till the Plaintiff moves to the contrary.

Where excessive Damages are given upon a Writ of Inquiry, the Court has, upon Affidavit and good Cause shewn, granted another Writ; so likewise, where the Damages are too small.

To set aside Judgment upon an Inquiry Plea tended which was executed after that the Defendant had delivered his Plea. Ordered to shew Cause why the Defendant should not be admitted to plead.

To set aside an Inquiry, because no Declaration was delivered to the Defendant after his Appearance, referred to be examined.

Vide postea Trespass, after Agreement Inquiry executed.

To stay filing an Inquiry, because the Declaration was delivered with Blanks, ^{To stop an} Inquiry upon and ^{Inquiry upon} Surprize, and blank Narr^{r.}

Com. Pleas. and was never filled up, and the Inquiry executed upon Surprize, whilst the Cause was under a Reference, referred to be examined, and all Proceedings to stay till moved by the Plaintiff. *Hobs versus Little*, per *Wright prox' Amic'*.

Second Writ of Inquiry. A Second Writ of Inquiry cannot be executed in the same Cause without Leave of the Court first had; *per Cur'*.

No Challenge to a Jury, &c. Motion to set aside an Inquiry. *Per Cur'*, No Challenge can be made to the Jury impanelled on a Writ of Inquiry.

200*l.* Damages sworn, and but 100*l.* found. Where a Writ of Inquiry in an Action of Waste duly executed, and 200*l.* Damages is sworn unto, and the Jury found but 100*l.* and so Judgment treble Value 300*l.* Moved to set it aside, and denied *per tot' Cur'*, *Mich. 1689.* Lord Chief Justice *Pollexfen*.

How to execute a Writ of Inquiry. When your Writ of Inquiry is made, you must go to the Prothonotary to sign it, for which you pay 2*s.* and at the Seal 7*d.* and then carry it to the Sheriff two Days before you intend to execute it, and indorse the Place on the Writ, where you have given Notice for the Execution thereof, and he will cause a Jury to be returned, and all their Fees in *Middlesex* comes to 1*l.* 10*s.* 4*d.* then Two or Three Days after call for the Return, and after you have got it, carry the Inquisition and Writ of Inquiry to the Stamp-Office, and stamp the Inquisition with a double Half-Crown, and Four Days after the Return you may carry it to the Prothonotary to tax the Costs, and sign Judgment; for which

which you pay 5*s.* 4*d.* Then carry it to Com. Pleas. the Clerk of the Judgments, for him to enter up the final Judgment; for which you pay him 2*s.* but you make out what Execution you please your self, and not him.

Note, That in your Notice, you must express your Place and Time certain, or else it is no good Notice, and it must be as long as Notice of Trials are. No Costs for not executing a Writ of Inquiry ordered to be before the Lord Chief Justice.
Trin. 1690. Pollexfen.

Judic' & Executio.

When a Judgment is above a Year and a Day old, and you would proceed thereon, you have two Ways; an Action, and a *Sci' fa'*: If the Debt be small, the former I take to be the best Course; for there you recover Costs, in the other none. And it is a general Rule, in all Cases on *Sci' fa'* you recover no Costs, be the Pleadings and Proceedings thereon never so long. If you go by *Scire facias*, and the Defendant in Judgment be living, notwithstanding the Plaintiff be dead, one *Nichil* serves Turn; if the Defendant be dead, there must be two *Nichils* against his Executor or Administrator; but whether living or dead, One *Scire feci* return'd serves; and an Entry must be made of the

Writ

Com. Pleas. Writ and Returns on the Roll, concluding with an *Habeat Execution'*: But this Entry is not signed with the Prothonotary, only he has 2 s. for Entring it. If the Judgment have lain above Ten Years before If above Ten you can have a *Scire facias*, you must Years. get a Rule from the Secondary, who will grant it you of Course, without moving the Court or Treasury.

Satisfaction of Judgments on Postea's, Demurrers, In-quir', &c. when to be entered. Satisfaction may be acknowledged, not only in Court in Term-Time, but at a Judge's Chamber in Vacation; as also all Judgments on Postea's, Demurrs, Writs of Inquiry, *Elegit*, Partition, &c. as also Return of Writs of *Seisin in Dower and Waste*, &c. are all entred on the Roll by the Clerk of the Judgments.

Executions of several Defendants must be against all. Execution must be against all that are in the Record; if there be three Defendants, it cannot be against One or Two, but against all.

Goods restored, levied on a *Fi' sa'* after *Supersedeas*, and an Attachment against the Sheriff. On Affidavit, That Goods were levied upon a *Fieri fac'*, and sold after a *Supersedeas* brought, and Notice given thereof. Motion to pray an Attachment against the Sheriff, and Restitution of the Goods. *Per Cur'*, An Attachment granted, if not Restitution within Three Weeks.

N. B. A Horse that was levied upon this *Fieri facias*, died after the *Supersedeas* brought. 'And per Cur', The Plaintiff must make Restitution of him in Value; and the Plaintiff could not have any Fees or Charge allowed after Notice of the *Supersedeas*. *Mich. 1679.*

To set aside a Judgment, because no Com. Pleas. Copy of the Issue was deliver'd him; *similit'*, where Copy of Issue was delivered, ^{To set aside} but no Notice of Trial; *similit'*, where the Plaintiff tried the Cause, where the Defendant demurs to the Declaration:

In all these Cases the Court orders a Reference to the Prothonotary, and in the mean Time all Things to be *in Statu quo*.

Execution set aside, and Writ of Resti- Execution tution awarded, because a *Test' Fieri Fac'* was sued out against the Defendant, before any *Fieri fac'* was returned with *Nulla bona* in the proper County.

Upon an Execution, the Landlord must be paid One Year's Rent, before the Removal of the Goods off the Premisses.

8 Anne C. 7.

A Writ of Execution shall not bind the Property of any Goods until the Time the same is delivered to the Sheriff, &c. who, on Receipt thereof, shall endorse the Day of the Month when he received it.

29 Car. 2. cap. 3.

Upon a *Fi' Fa'* the Sheriff shall have his Fees according to the Sum levied.

A Seizure of Goods in Execution de- vests the Defendant's Property therein, and discharges his Person. *Salk. 323.*

A Warrant of Attorney to confess a Judgment, is good but for a Year next of Attorney ensuing the Date thereof; and if you en- ^{but for a} ter Judgment on such a Warrant (after ^{Year next} after Date. the Year expired) without first moving the Court, and a Rule thereupon, the Court will set the Judgment aside.

O o

Where

Com. Pleas. Where a *Venire fac'* is returnable the last
 Execution when had. Return within the Term, you cannot have
 Execution (on a Verdict) the same Term,
 N. B.

To supersede *Per Defendantem* to supersede an Execution irregularly taken out against one of against one, the Defendants alone, where the Judgment was jointly against Two ; *Per Robinson*, The Plaintiff must make his *Ca' Sa'* against both, but may thereon take which he will : The like of *Test' Ca' Sa'*.

Arbitrament. Judgment staid, because Plaintiff went to Trial whilst the Cause was under Arbitrament.

Judgment, how related. A Judgment in the Common Pleas shall relate to the Essoin-Day of the Term.

Cro. Car. 102. pl. 2. But in the King's Bench only to the First Day of the Term.

Entry *Judic'* on the Roll. *Per Cur'*, Upon *Hab' fac' poss'* entered on the Roll, you need no *Scire fac'* to revive it ; and *simile* on a *Ca' sa'*, but then upon the Roll you must continue it from Term to Term. *Vide M. D. Precedents dec' in Entry Moyle 20.*

Part by *Fieri fac'* in a *Ca' fac'*. If you levy Part of a Debt on a *Fieri fac'*, you must make an Entry of the *Fieri Fac'*, and the Return thereof, and award a *Ca' sa'* for the Residue.

Satisfaction. *Per North*, You may bring a *Scire facias* to make the Plaintiff acknowledge Satisfaction upon Judgment when the Money is paid. *Per Robinson*, upon a Suggestion in the Body of the *Scire fac'* that the Money is paid, *tho' Townfend hath denied it.*

In Proceeding on a Writ of False Judg. Com. Pleas.
ment, when the Exceptions are entred upon the Roll, you may have the Record read, and the Serjeant may be heard to it, when he will, for it is never set down in the Court-Book. See before Title *Habeas Corpus.*

To move to sign Judgment must be in Motion to the Court, and not in the Treasury. *Trin sign Judg-
ment, where to be.*
1690. 7 W. & M. Lord Pollexfen.

Original.

Your new Original to warrant Judgment comes in soon enough, so it be re-new Original turnable any Time before Judgment signed, and it is best to have it of the same Term, if your Imparlane be not entred.

The Cursitor will make your Original Time to be returnable the First, or any other Return speak your of the Term before you bespeak it, so you Originals, bring your Note to him on or before the Seventh Day within the subsequent Term: For Instance; If you bring your Note on or before the 29th of October, he will make it *Craſtin' Trin'*, or any other Return that Term; but he cannot go further than the preceding Term, without Warrant from the Master of the Rolls, which is often had upon a Petition to him; and Affidavit of mislaying your Instructions, or you could not get the Specialty to perfect the *Alias dic'*, or other reasonable Excuse, and for the Warrant you pay *5s. 6d.*

Com. Pleas. If the Defendant pleads the Statute of Limitations, and you have within Six Originals to Years sued him to an Outlawry in a *Clausum fregit*, or have taken out a *Clausum fregit* or *Capias* against him: Such Proceedings will do you no Good against the Plea; for a *Clausum fregit* is no Original to your Action, but your Original ought to be Special, such as agrees with your Declaration: Therefore, besides your Process to Outlawry, at such Time as you begin the same, it is best likewise to file a new Original. *Sed vide 2 Vent. 258. and 1 Iust. 260.*

A standing Rule, when Originals, when not.

Where the Appearance of the Defendant is by Compulsion and Process of Law, there must be an Original sued out by the Plaintiff; but where a Judgment and a Release of Error is given by the Defendant, there needs no Original to warrant the Judgment: Lord North, and Lord Chancellor agreed thereto. *Per tot' Cur^r.* So is the Practice of the King's Bench: Lord North spoke this in Court, that the Attornies might take Notice of it. — 1679.

Placita.

Privilege.

An Attorney or other privileged Person shall not be allowed his Privilege though pleaded when he is joined with another Person in an Action in this Court, or the King's Bench.

The Defendant got a Rule in the Treasury to amend his Plea, and thereupon Com. Pleas. pleaded a new Plea, which the Court To amend would not allow; for a Rule is no Authority to plead *de novo*, 28 Octob. 1679. But not good, because thereupon a Title was in Que. except Title stion, the Court gave the Defendant be in Que- Leave to plead a Plea; *N. B.*

The Defendant had paid the Money For Defen- upon the Judgment, (as appears by Affidavit;) but the Plaintiff in his Life-time *to a Scire Fac'. had not entred Satisfaction on Record thereof. His Executors sue out a Scire Falias against the Defendant; the Sheriff did not warn the Defendant (who thereupon would have pleaded his Payment) and so Judgment by Default, and to stay all Proceedings, and the Plaintiff to shew Cause why the Judgment should not be set aside. Vide the late Act for Amend- ment of the Law.*

Moved to alter the Plea, which being Plea altered. entred, and the Roll being brought into Court; *per Cur'*, We cannot help you. Vide ante Tit. Declarations.

The Prothonotary must receive a Plea, Before Judg- to be left in the Office (though the ment signed. Rule out) at any Time before Judgment signed.

No Serjeant's Hand is necessary to a Where Ser- General Deins age, per *minas*, *son assault* jeant's Hand demesn', plene Administravit, dures, per ^{is requisite.} Wyrley: Robinson econtra quoad Deins age.

After a Respondeat Ouster upon a Rule Respondeat given, the Defendant must plead forthwith, *Ouster.*

Com. Pleas. or else the Prothonotary will sign Judgment. Quære, What Time is allowed by the Rule.

Abatement. The Defendant after a General Impariment pleaded in Abatement of the Writ, and thereto the Plaintiff demurred. Lord North; When you plead in Abatement of the Writ, *Judgment quod Respondeat ouster.*

Court's Leave to plead to Original Action. Upon Suit on a Bail-Bond: If you have the Court's Leave to plead in Chief, (i. e.) to the principal Action, you must plead no Dilatory Plea; but upon paying Costs, in such Case the Court gave leave to plead a Popish Recusant.

Privilege of Peerage. In Case of a Peer, unless he be Party to the Suit, (and then he must demand it) Privilege of his Peerage cannot be taken Notice of by the Judges.

Tenant of a Peer brings his Writ to the Assizes. If the Tenant of a Peer be Party to a Suit, the Peer must bring his Writ of Parliament to the Assizes or Place of Trial. Per Cur', It was so held in the Case of my Lord Huntington, & al'.

Prohibition.

To have Prohibition, how to move Plea, If you move for a Prohibition, because the Spiritual Court will not allow your Copy of the Libel, and of the Plea you offered to plead there, and your Suggestion.

Prisoners.

A Prisoner being brought by the War- A Prisoner den of the Fleet to the Bar by *Habeas Corpus*, appears in *pus*, and being asked what Attorney should *propria persona* appear for him to *12 Narr's* against him, *sua*. said, *He appeared in Person*; and it was recorded: And per Cur' a Rule was made *nisi pl'itaverit in eight Days, Judicium per defalt'*; and the Court said, the Plaintiff might then charge him with Executions.

If a Prisoner, discharged by the Act, Prisoner dis- be arrested for any Action whereof he charged per was discharged, he shall not be forced to ly appear. put in Bail; but may summon the Plaintiff before a Judge at his Chamber, who will upon Sight of the Duplicate order an Appearance to be taken, and discharge the Prisoner out of Custody, and therefore you need not move the Court.

If a Man renders himself in Discharge Surrender in of his Bail, and Time being given to ^{discharge of} Bail. the Plaintiff to pray him in Execution; if the Prisoner, before he is prayed in Execution. removes himself to the King's Bench, he shall not be discharged in this Court till he is prayed in Execution. N. B. The Plaintiff may have an *Habeas Corpus* to the King's Bench, to bring him to the Bar of this Court, and there he may be prayed in Execution.

Quare Impedit.

Com. Pleas.

Moved to charge Prisoners in the Fleet
 (committed by the Court, and ordered
 to be prosecuted *per Plaintiffs* in the King's
Bench on a Riot) with an Action for ta-
 king the Plaintiff's Goods and denied.
 Mich. 1689. Pollexfen.

Quare Impedit.

Enter a Dis-
 continuance
 where all are
 agreed.

IN *Quare Impedit*, where all Parties were
 agreed, the Court advised the Plaintiff
 to enter a Discontinuance without Costs;
 and not that the Defendant should enter
 a *Non pros'*, because that would dispa-
 rage the Plaintiff's Title.

Costs where
 allowed.

No Costs on a *Non pros'* in *Quare Impedi-*
t; but Costs on a Discontinuance therein
 which was queried *per Lord North*, and
Q. de ceo — 1678.

How Jury is
 to find on a
Quare impe-
dit.

On a *Quare Impedit* tried at Bar : N. B.
 If the Jury find for the Plaintiff, they
 must also find of whom, and upon whose
 Presentation the Church is full, and how
 long since it became void; because in
 the Judgment the Plaintiff shall recover
 Damages half the Value of Half a Year.
Vide 2d. Judgment 183. 17.

Two Rules
 before you
 sign Judg-
 ment.

There must be two Rules in a *Quare Im-*
pedit to plead, as I think, both by Motion of
 Court, before you can sign Judgment.

Nonsuit in a *Quare Impedit* is fatal.

Sum' die Sab-
bati, good.

In a *Quare Impedit*, the Incumbent was
 told (by an Officer) as he was com-
 ing out of the Church on a *Sunday*, That
 he

he had the Sheriff's Warrant to summon Com. Pleas.
him to appear on a Quare Impedit: And moved per Plaintiff, That if this Return should be avoided, then they must have a New Writ; and if it should not be within six Months, then he should lose the Action.

Ordered per Cur' that the Summons should stand.

Record.

If any Executor or Administrator plead Judgments obtained against him or his Records certificated from Testator, or Intestate, in any other Court of Record, and the Plaintiff reply Nul record; the Defendant, to prove his Issue, before the next Term must sue out a Certiorari from the Cursitor; and when the Record is returned thereon, must bring such Return to the Cursitor, who files it, and helps you to a Mittimus and Transcript thereof, to send the Record into the Common Pleas.

Per Lord North, If the Defendant enter Ne recipiatur of the Record at the Assizes, he shall have Costs for his Attendance. Quære, If so in London and Middlesex.

If a Cause be carried down by Proviso, Per Proviso, the Plaintiff cannot withdraw the Record, because in such Case the Record put in by him, is afterwards the Record of the Defendant.

If

Com. Pleas. If a Writ of Error (*in Banco Regis*) upon a Record *in Communi Banco* be quashed, Removing a Record on a the *Mittitur* must be struck out of the Writ of Error Record by Rule of Court, upon Motion. *Per' Cur'*, if the Record be removed, then if you have need of the Roll, you must bring a Writ of Error upon the Record *quod coram nobis residet*. Style's Rep. 470. 3, &c.

Recovery and Fines.

The Writ of *Seisin*, *Entry* and *Summons*,

See Title *Sheriffs*.

Appearance of Tenant and Vouchee If in your Recovery the Tenant at first appear by Attorney, although the Vouchee appears by Summons, yet there must not be *Alias prout patet*. N. B. The Difference when the Tenant appears first in Person, and then, at the Return of the Summons, appears by Warrant of Attorney; and when the Tenant appears at first by an Attorney. *Bagnal versus Jones, Mich. 30 Car. 2. Rot. 257.*

Dedimus to appear. *Dedimus* out of *Chancery*, Warrants of Attorney for the Tenants or Vouchees, are either by Warrant, or taken before a Judge. Where-ever there is a Warrant of Attorney, in a Recovery by *Dedimus*, there must be a *Mittimus* and Transcript; because the *Dedimus potestatem de Warr' Attorn' recipiend'* is returnable into the *Chancery*, therefore not cognizable by the Justices

Justices of the Common Pleas. Compleat Com. Pleas.
Attorn. 144.

Several Titles ought not to be joined in one Fine. *Per tot' Cur'*. Several Titles.

A Fine sued out by Fraud: Here it was said, That Interrogatories can be admitted only as to the Misdemeanor, and that as to the Fine they must bring a Writ of Error.

A Motion to mend a Fine where the Chirographer had made *Heredibus ipsius* the Conuzor, where it was in the Precipe and Concord taken before the Commissioners, *Heredibus suis*, and denied; *Mich. I W. & M. Pollexfen.*

If one of the Parties who is to acknowledge a Fine, lives in the Country, and the other in Town, you may sue out a *Dedimus*, naming Commissioners, as well in the Town as Country, who may by Virtue of that *Dedimus*, take such Fine which will save you great Expence, for otherwise the Party living in Town, must acknowledge before the Chief Justice, in the Manner set out in *Page 473.*

And then you must have a half *Dedimus* from the Cursitor of the County, where the Land lies, for the Chief Justice to return such Caption.

If the Husband sets the Wife's Hand to a Fine, and she doth after acknowledge it, it is good. *Darby versus Naylor, Mich. 6 W. & M. 1694.* *Vide ante, Covenant, & postea Writs.*

Release.

Damages released. If Damages be given upon several Issues, the Plaintiff may remit the Damages as to one Issue.

Where Damages are entire, if the Plaintiff releases the Whole, he thereby releaseth the Action also.

Rescous. Vide Attachment.

Regul'.

Rule peremptory in Real Actions. In all Real Actions, after your Common Rule to plead is out, before you can have Judgment, you must move by Counsel for a Peremptory Rule.

Rule discharged of Course. If a Rule be made, The Cause shall be shewn such a Day, and it be accordingly, the Rule is discharged of Course.

Regula, That Ordered in Michaelmas Term 1679. per if after two Cur', That all the Prothonotaries were Summons, desired to take Notice, that upon Reference by Rule of Court to any of the Prothonotaries, if after two Summons and Affidavit made thereof, the Party summoned would not appear, they should proceed *ex parte*.

Regula, Affizes. Motion to make a Rule made at the Affizes a Rule of Court, *allocatur.*

If

If you swear Notice, your Affidavits Com. Pleas. must name the Parties to whom it was given. *Nisi Causa.*

If a Rule be made with a *Nisi causa, Nisi Causa.* and no Cause is shewn upon that Rule, at the Day upon Affidavit of the Service of such Rule, you may move the next Day to make it absolute.

Where the Defendant goes out of Court *sine die,* by Reason of a Disability of the Plaintiff, when the Disability is removed, the Plaintiff must sue out a Re-summons against the Defendant, to bring him into Court again.

When you move against a Rule granted on an Affidavit, you must have a Copy of such Affidavit made and signed by the Secondary, with whom it is filed, or else the Court will not hear the Motion.

In a Real Action you cannot sign Judg. Rule in ment, without a Special Rule of Court. *Real A&i- ons.*

Upon a Nonsuit in either of the Courts of *Westminster,* Oath being made of the Costs. Costs taxed and demanded, the Court will not let the Plaintiff proceed in a new Action for the same Cause, till he hath paid the Defendant the Costs of the Nonsuit.

Rules to plead cannot be given before Rules to the Declaration is delivered, or any plead. Appearance for the Defendant be actual- ly entred.

Where a Rule of an Assize is made in Action of *Trover,* That no Costs shall be made to either, they tax Costs and get Judgment. Ordered, That Judgment be staid

Com. Pleas. staid till Cause be shewn on the other
 Side. Mich. 1689. Pollexfen.

Sheriffs.

Vide 403.

A *Supersedeas*
to the She-
riff to in-
demnify
Bail.

Attachment
against She-
riff.

Restitution.

Fees.

Cepi Corp'.

Ret. Fieri Fa'
per Vic'.

WHere the Sheriff hath a Bail-Bond upon an Affidavit of the Agreement of the Parties, a Special *Supersedeas* has been granted to discharge the Bail from the Sheriff.

Moved for an Attachment against the Sheriff and Under-Sheriff (for denying to make a Warrant upon an Execution delivered them) to be directed to the Coroners. Granted to be sued without further Motion.

Upon a Writ of Restitution, if the Sheriff hath sold the Goods, he must restore the Money.

North: The Stat. 29 Eliz. cap. 4. doth not give the Sheriff Leave to hold his Fees out of the Money levied; but if he may take them before-hand.

If the Sheriff returns *Cepi Corpus*, whether he may at any Time after take up his Prisoner for his own Indemnity: And *per tot' Cur' Quære*.

The Sheriff upon a *Fieri Fac'* may return, *Quod nulla persona venit ad monstrandum mibi bona*; and it is a good Return, and he shall not be forced to execute a second *Fieri Fac'* till some Body go with him to shew him which are the Defendant's Goods

Goods: But he cannot in this Case re-Com. Pleas.
turn *Nulla bona.*

Per Lord North, the Sheriff's cannot dis-
charge a Prisoner upon a Process out of
the *Common Pleas*, by putting in Bail be-
fore a Judge of the *King's Bench*; nei-
ther can the Judges of the *Common Pleas*
take Bail to a Process out of the *King's*
Bench; *per tot' Cur'*.

If a Sheriff does not return your Writ
though called for, you may upon a Mo-
tion in the Treasury, get a Rule for him
to return it; or the Secondary will draw
it up of course for you, which you must
serve; and if he does not return it on
that Rule, you may on Affidavit of the
Service obtain another, and for Default
of a Return on the second Rule, you in
like manner get a Peremptory Rule for
him to return it by a certain Day, and
if he does not return it, then you may
upon Affidavit of Service of such Rule,
and that you then demanded a Return there-
of, and that he has not returned yet, move
for an Attachment against him.

But Note, such Affidavit ought not to
be made till just before the Motion, for
otherwise the Court will not grant the
Motion, for perhaps the Sheriff may have
returned the Writ since the Affidavit
sworn.

A Captain is arrested, and afterwards
discharged: Moved, That the Sheriff
might not return his Writ, and denied
per Cur': *Mich. 1689. Pollexfen. Quære.*

Bail taken
in B. R. &
econtra.

Moved

Com. Pleas. Moved, That an Appearance may be taken on the Sheriff's Bond, given to the Defendant's Bailiffs to indemnify the Sheriff, and the Debt is paid, and a Discharge is got from the Plaintiff to the Sheriff; yet the Bailiffs arrest the Defendant's Security, and carry him to Gaol, notwithstanding he tenders them good Security, for Fees as they pretended: Let the Plaintiff shew Cause why an Appearance should not be entered, and an Attachment against the Plaintiffs. *Moore versus Haynes, &c.*

The Sheriff returns a *Cepi Corpus*: You must first file the *Cepi*, and then proceed to amerce him; which Amerciaments must be in the Filacer's Office. *Pasch. 7 W. & M.*

Cepi return-
ed, how to a- Moved to alter the Sheriff's Return; for that he had returned on a *Sci' Fa'* all the Tenants, and they would have it returned only against *Viner* the sole Landlord; and denied *per Cur'*: *Hill 1690.*

Supersedeas; Vide ante *Judic'*.

Vide in Libro Page 420, 469.

Trespass, Assault, &c.

Full Costs
Trin. 27. Car.
2. Rot. 1614.

FULL Costs where given where the Trespass was exactly as here. *ped' ambuland' & arbores succidit Cepit & Asportavit;* and Verdict found generally, as in this Case. But the Judges bid Mr. Robinson inquire

inquire of Mr. Livesay, what was the Practice in the King's Bench in the same Cases; and he affirmed he always gave full Costs where an *Asportavit* is laid: Reported to the Court by Mr. Robinson. But if the Declaration had been, and the Jury had found *Mae-remiu' & lignum inde provenien' ceperant & asportaverunt*; all agreed there must have been full Costs. *Vide Costs.*

This is a constant Rule, That if an *Asportaver'* be laid in the Declaration, and Costs, the Verdict be found for the Plaintiff generally, upon *Non Culp'* pleaded that he shall have his full Costs.

Moved pro Defendente, That the Plaintiff should have no more Costs than Damages. If in *Transgr'* the Title comes in Question, so that it must be given in Evidence, the Plaintiff shall have full Costs: But in this Cause the Defendant pleads a Way; the Plaintiff replies, *Extra viam*: To which the Defendant rejoins, *Non culp'*: And this is barely Not Guilty; and therefore (*per Act 22 & 23 Car. 2. cap. 9 sect. 149. Vide Bro. fol. 56.*) an Action brought on this Statute for suing out a *Ca' Sa'* for 7*l.* Damages.

If in Trespass for mean Profits, and you are doubtful of the Time, the best Way is doubtful to bring two Actions, one from the Beginning of the Time you doubt of, and another from the Time certain.

In an Action of Assault and Battery *Simulcum* in the Writ was without a *Simulcum*, and the Assault and *Narr'* was with a *Simulcum*; and moved to cross out the *Simulcum* in the *Narr'*, and

P p

denied

Mich. 1689.

Trespass. Treasury.

Com. Pleas. denied. The Prothonotary said, That the Writ must say *Simulcum*, or else it cannot be put in the *Narr.*

Costs in Asslt and Battery. Moved, That where the Plaintiff had sued three Defendants, and two are found guilty in an Action of *Assault and Battery*, that the Plaintiff might have Costs against the two, and denied. *Pasch. 7 W. & M. 1690.*

Costs in Transgr. Costs on Trespass allowed, where the Corn, Straw, or Soil is taken or carried away ; or if removed up, out of an Inferior Court ; otherwise no Costs. *Trin. 1692. Lord Chief Justice Treby.*

Simile. No Costs in Trespass in Ploughing ; because there is no *Asportavit.*

Treasury.

Treasury Motions. Ordinary Motions, where no Affidavit is to be read, are usually made by Attorneys in the Treasury ; but none upon Affidavits.

Al' Hab' Corp' cum pœna. An *Al' Hab' Corp' cum pœna* is granted in the Treasury upon Motion ; and therefore you need not move the Court for it.

May move in the Treasury, to bring any Sum under *5 l.* into Court.

Triatio.

Per Regul' Trin' 2. Georgii.

Whereas in divers Actions, the Plaintiff many times in pleading concludes ad patriam, and the Defendant not being obliged to join Issue or demur, till a four Days Rule is expired, thereby Plaintiffs are greatly delayed, for the Prevention of which for the future, it is ordered, that the Defendant's Attorney shall accept of Notice of Trial, upon the Back of such Pleading, and the same shall be as good and effectual as if Issue was joined.

Notice.

Where the Plaintiff hath given Notice Costs for not of Trial, and does not proceed nor coun proceeding termand the Notice before the Assizes, the ^{to} Trial. Defendant on Affidavit made by him, or his Attorney, of his Attendance, and that no Countermand of Notice was given, or if any, that it was not Time enough, setting forth the Countermand in your Affidavit, may the next Term of Course have a Rule without Motion, for his Costs of Attendance, to be taxed him by the Prothonotary ; which Rule must be served on the Plaintiff's Attorney after the Prothonotary therein hath set down a Day for him to attend : At which Day, if he refuse to attend, or shew no good Cause to the contrary, the Prothonotary taxes you 33 s. 4 d. at the Bottom of the Rule, which you are to recover by serving the Plaintiff personally with a Copy

Com. Pleas. of the Rule and Taxation, and demanding the Money; which if he refuseth to pay you, upon Affidavit and Motion the the Court grants you an Attachment.

Vide Attachment. 514.

A New Trial upon Suggestion of an Agreement. Motion for a new Trial, upon Suggestion of an Agreement, granted upon bringing the Money into Court within twelve Days, and to pay full Costs, or else the Plaintiff to take his Judgment, 1679.

Simile for not shewing Rule of Court. For a new Trial; because the Copy of the Issue was mended, and afterwards upon Tender refused by the Defendant's Attorney, because the Plaintiff's Attorney did not shew him the Rule of Court for the amending, nor tender him the Costs by the Rule directed. Ordered to stay the *Postea* till examined, 25 Octob. 1679.

In Hue and Cry, where the Count is left out. For a new Trial in Hue and Cry, where (after the Recital of the Act of Parliament) the Count was left out in the Imparlane, tho' inserted in the Issue. Ordered to shew Cause why the Defendant should not have a new Trial.

Where Jury finds contrary to the Judge's Direction. For a new Trial, where the Jury found contrary to the Judge's Direction. In this Motion you must produce the Judge's Certificate (of the Jury finding contrary to his Direction) in Court.

Where a Jury-man desirous against *Topsall Randall* a Juryman, for demanded Money of the Plaintiff; which the Plaintiff refusing, he said, it had been better for him he had; and the Verdict against the Evidence was given against the

the Plaintiff. *Per Cur'*, Day given to shew Com. Pleas. Cause why a new Trial and an Attachment should not be granted, as prayed. *Vide postea Verdict:*

For a new Trial by Reason of excessive Damages given in Assault and Battery. Rule to shew Cause why upon bringing in the Money, and paying full Costs, a new Trial should not be granted. For excessive Damages.

After the Defendant has pleaded, and the Issue is joined, the Plaintiff must go on to Trial (although the Defendant will not accept the Notice, or declare that he will not attend) and will have Verdict. No Interest is allowed upon a Book-Debt, because the Forbearance to sue is the Plaintiff's Courtesy. Trial.

If you move for a Trial at Bar, you must make Affidavit that the Lands or Premisses in Question are of the Value of 60*l.* per Annum. Trial at Bar.

Moved, That the Lessor of the Plaintiff was dead, and he being but Tenant for Life, and so bound by the Special Verdict, the Plaintiff can have no Execution by the *Ha' Fa' poss'*. *Per Cur'*, Bring your Writ of Error; we will take no Notice of this Suggestion.

The Court will put off a Trial upon the Affidavit of the Defendant, setting forth that he has a material Witness, and without whose Testimony he cannot go to Trial, but you must particularly shew in your Affidavit the Reasons why you cannot find the Witness, or have him at the Trial.

Com. Pleas. Where a Jury is not full upon a Trial, at Bar, the Plaintiff shall have Tales returnd at the next Return, per Stat. 17. Car. 2. for there does not need 15 Days between the Teste and Return of it.

Juror withdrawn. If a Juror be withdrawn, the Defendant cannot carry it down by Proviso, because the Cause stays by Consent of both Parties.

Judges Opinion excepted against. Per Lord North; If upon Trial the Judge hath no Matter of Fact to direct, but gives his own Opinion, then the Party grieved may have a Bill of Exceptions: But if the Judge direct contrary to the Matter of Fact, then you may demur to the Evidence.

Costs of a new Trial. No Trial shall be set aside without Costs being paid of the first Trial.

A new Trial upon riens per Discent on a Surprize. Debt against an Heir, and riens per Discent pleaded; at Trial a Seizure of the Father in Parcel of the Lands is proved, and upon Affidavit that he never was possessed, but another, it was ordered a new Trial. *Ramsden versus Batt, Mich. 1690. Pollexfen.*

Notice of Trial on an old Issue. If Issue be joined above 12 Months, and no Notice of Trial in that Time given, you must give a whole Term's Notice, and that before the Term begins, or not good. *Trin. 1692. Treby.*

No Countermand of Trial at the Assizes shall be good, unless Notice be given two Days before the Commission-Day.

N. B. No Countermand to be given on a Sunday. *Mich. 5 Geo.*

Venues & Venire Fac'.

IN Motions to alter *Venues*, the Defendant must make Affidavit touching the Place where the Cause of Action did arise, and such Motion must be made before the Rules to plead are out, or any Plea pleaded. *Pasch. 7 W. & M. Pollexfen.*

You need not give any Notice of the Motion to change the Venue.

If the Motion be granted, the Defendant must pay the Plaintiff for a new Original. *Vide postea.*

There need not be 15 Days between the *Teste* and Return of the *Venire Fac'* by Statute, to try a Cause in the Country ; it is always returned the last Return of the Term ; in *London* or *Middlesex*, the second Return ; it must not bear *Teste* before Issue joined, for then there is no Issue to warrant it ; it must be awarded the last Return of the same Term the Issue is joined upon your Issue-Roll of that Term. But in the Record and *Venire fac'*, the first Return of the same Term you try it, if it be three or four after.

The Court will never alter a *Venue* in Upon an *E-*
scape ; which was moved by Mr. *Grange*, and denied *per tot' Cur' Octob. 1689.* *Venue altered.*

Moved to mend a *Venire Fac'*, where it *Vitiu' Scripto-*
was only Vitium Scriptor' (*viz.*) In an Ac-*ris amended*
tion of Trespass only, the Clerk had writ in the Ven'

Com. Pleas. in the *Venue, de placito Transgr' & Ejectione firme*. Per Cur', Let the *Ejectione firme* be struck out, if upon Examination of the Prothonotary it be found only to be *Vitium Scriptoris*, and that there is no Error brought.

Notice to be given on altering Venues.

If the *Venue* be changed after Notice of Trial given, you must after such Alteration give fresh and due Notice, otherwise the Judgment will be set aside, although the Attorney on the other Side accepted the Declaration by an Oversight, and paid for it.

Venire fac' to alter.

Where a *Venire fac'* is returnable the last Return within Term, you cannot have Execution (on a Verdict) the same Term.

To alter a Venue in Debt on a Lease Parol.

To alter a *Venue* in Debt upon a Lease-Parol, by Prothonotary, the Action is transitory, and it is not usual to alter the *Venue* in this Case: The Court seemed inclinable, that on a Lease-Parol, if it were made in the County where the Lands lie, the *Venue* might be altered and laid in the proper County, and accordingly made a Rule *Nisi Causa*.

In Trover.

To alter *Venue* in Trover for the Plaintiff: Lord North; The Trover shall be admitted to be in that County where the Plaintiff lays the Conversion.

Venue chan-
ged.

Where a Man lays an Action in any improper County, there the *Venue* shall be changed *ex debito Justitie*.

Not to be changed.

In an Action of Debt for Rent, Action of Covenant, or upon any Bond or Speciality, or in an Action of Account, Render, the Court will not alter the *Venue*.

To

To change the *Venue*, if the Declaration Com. Pleas. be of the same Term wherein it is delivered, there needs no Oath for the Declaration of the same Time of the Receipt of the Declaration ; Term. otherwise you must set it forth in your Affidavit when you received it. I Bro. fol. 494.

In the *Venire facias* the usual Words formerly were, That every Juror should have 4 l. of Land, &c. But now by the Stat. 4 and 5 W. & M. c. 24. it is enacted, That all Jurors to be returned for Trials of Issues joined in the King's Bench, Common Pleas or Exchequer, or before Justices of Assize or Nisi prius, &c. (other than Strangers upon Trials per medietatem Linguæ) shall have in their own Name, or in Trust for them, within the same County, 10 l. per Annum, and in Wales 6l. at the least. And if any of a lesser Value shall be returned, it shall be a good Cause of Challenge, &c. Therefore the Writ must run, Quorum quilibet habeat Decem librat' Terre ten'torum vel reddit' per annum ad minus per quos, &c. If the Sheriff, or other Officer or Minister, shall return such as are not of such Worth, he shall forfeit respectively 5 l. to his Majesty for every Person.

If he returns any Person to be summoned, unless he was duly summoned six Days before the Day of Appearance, or take any Reward to excuse his Appearance, he shall forfeit 10l. to his Majesty.

Saving to all Cities, Boroughs and Towns Corporate, their ancient Usuage.

Com. Pleas. Tales men need to have but 5 l. per An.
 in England, and Wales 3 l.

Such Officer as takes Reward for returning
 of any Tales, forfeits for every Offence 10 l.
 one Maiety to the Prosecutor, the other to His
 Majesty.

No Writ, De non ponendis in Assisis &
 Juratis, to be granted, unless upon Oath
 that the Suggestions be true.

This Act after several Continuances was
 by 9 Georgii cap. 8. continued 7 Years
 longer.

Stat. 4 and 5 Anne cap. 16. it is enact-
 ed, That Venires out of Courts of Record at
 Westminster, shall be awarded of the Body
 of the County, except in Felony, Murder,
 Treason, and on Penal Statutes.

Verdict.

Joint Action. Where a Joint Action is brought against
 two and both plead the same Plea, if the
 Verdict be found only against one, the
 other against whom it is not found, re-
 covers no Costs : If one had confess Judgment,
 and the other pleaded, and a Ver-
 dict gone against him, the Costs of Trial
 are against them joint, and, he that con-
 fessed Judgment is as far liable to them as
 the other, and there is but one Taxation.

To set aside a Verdict. To set aside a Verdict; for that the
 Jury was tampered with by the Plaintiff,
 and it was so alledged, That the Fore-
 man of the Jury just before the Trial,
 advised

advised the Defendant to make an end of Com. Pleas. it, for that it would go against him; and that he and the rest of the Jury were well satisfied in it: *Concess' per Cur'* a new Trial upon the tampering.

A Verdict given at the Assizes to be ^{Special Ver-}
Security to stand to an Award, and a ^{dict.}
Rule thereupon made at the Assizes. *Quære*
the Form of the Rule.

A Verdict given at the Assizes, you may after the four first Days in Term, sign your final Judgment, the Defendant having so many Days to move in Arrest of Judgment, &c. But you must first get your *Postea* from the Associate, and Stamp it with a double Half-Crown, before you can sign the final Judgment.

A Verdict given at the Assizes for Secu- Verdict for
ring the Payment of Money, Part where- Part of a
of was paid, and the Plaintiff moved the Debt.
Court to take out Execution for the Re-
sidue, *Quod Concess' Nisi Causa.*

A Verdict cannot be given but in the Verdict gi-
Presence of the Plaintiff; and therefore ven.
if he will not appear, he must be non-
suit.

The Court will not set aside a Speci- Special Ver-
al Verdict without the Consent of the di&t.
other Side.

If the Repair of Fences be in Question, Fences in
and the Plaintiff hath a Verdict, he shall question, full
have his full Costs, *Stat. 22 & 23 Car.* Costs.
2. at the End of the last A&t.

Verdict may be taken upon any Part of
the Declaration, to which the Evidence
is applicable.

Witness.

Witness.

Answer in Chancery no Motion, That the Matter sworn in an Evidence. It was said by Serjeant *Maynard* upon a Motion, That the Matter sworn in an Evidence in Chancery, could not be read as Evidence in the Common Pleas.

Pauper al- low'd Costs. Though the Plaintiff be a *Pauper*, yet the Court said he must have small Costs, for that he must be at the Charge of the Witnesses.

Where several Persons are joined in an Action, and some found Not guilty, or no Evidence given against them, they may be allowed as Witnesses in the same Cause; for the Plaintiff might have no just Cause of Action against them, but made them Parties to take away their Testimony, by which Means, the Plaintiff might deprive the Defendant of all his Witnesses, if they should not be admitted for good Witnesses.

One that is any Ways concerned in the same Title of Land in Question, may not be allowed as a Witness in the Cause, altho' he be then no Ways a Party to the Suit, for his Testimony tends to the Strenghtning of his own Title.

Deed in Evidence. If you have a Deed that you must produce as Evidence at a Trial the best Way is to bring it in the Treasury, and move there, that it may be admitted at the Trial by the other Side; which if they refuse, **Full Costs.** then the Court will give you the full Costs

Costs of your Witnesses to prove it; but if Com. Pleas. you do not so move, you shall have your ordinary Costs; *per North*: And you must give Notice before-hand of your Motion.

If the Original Deed be in Being, the Deed Origin- Counterpart shall not be read as Evidence, ^{nal and} unless the Party producing it can make sufficient Proof, that he hath used his ut- most Endeavour to procure the Original

If you have Occasion for a Deed (at a Trial) which is in a Third Person's Hands, ^{Deed in Hand of a Third Person.} you may have a Subpæna with a *Duces tecum* of the Deed; and if he fails, the Court will order him —— Lord North said, that in the King's Bench the Lord Bedford being subpæna'd with a *Duces tecum*, brought an Original Deed into Court, lock'd up in a Box, which he denied to open (tho' ad- vised by the Court to open it) and pro- duce the Deed (but they could not oblige him to it;) and because the Original was in Court, the Court could not suffer the Counterpart to be read even in this Cause. —— The same Case, *Mich. 1689.* and denied to bring Writings into Court upon a Motion.

One of the Jury in a Trial at Bar was One of the sworn as Witness, and then examined. ^{Jury a Wit- ness.}

It is said, That a Person that is Bail for the Defendant cannot be admitted as an Evidence for him, therefore in such Case, it is best to change such Bail.

Agreed *per Cur'*, That a Bill in Chan- ^{Bill in Chan-} cery between the same Parties should be ^{cery.} read as Evidence, though it be not a bind- ing

Com. Pleas. ing Evidence ; if it be not between both the Parties at Common Law, it shall not be read——One of the Plaintiffs in a Party in a Bill of Chancery being dismissed there, by a Rule of Court was sworn in Evidence in a Trial at Bar in the Common Pleas, tho' it was much opposed by the Counsel on the other Side.

Cannot send. It was moved, That a Rule might be for Papers to be Evidence granted for the Custom-House to bring their Books to charge the Defendant at Trial withal, and denied. *Mich. 1690.*
Pollexfen.

Words.

Original in
*Scandalum
Magnatum.*

In *Scandalum Magnatum*, it is best to sue out an Original, *per North.*

Vide the Second Volume of *Instructor Clericalis.*

Writs.

Writ of Privilege. *Vide ante Tit. Attorn.*

Special Writ.

Where the Writ is Special, you cannot declare in another Action ; and if you do, the Defendant may plead in Abatement.

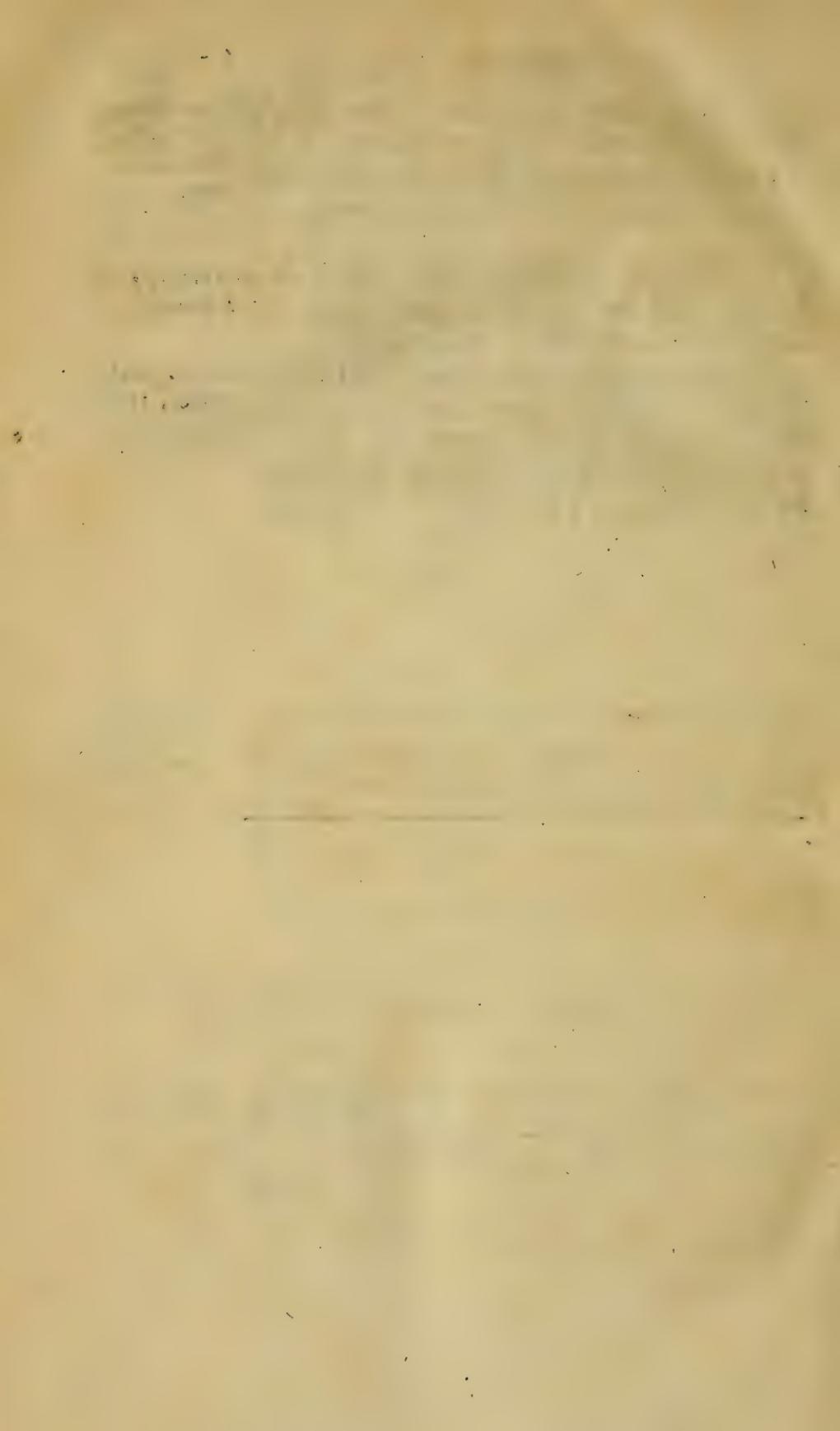
No Fine can be taken at Bar if the Com. Pleas.
Writ be not under Seal, *per Wyrley.*

Writ of a
Fine.

For the Returns of Writs see at the Be-
ginning of this Treatise, *Page 26.*

A Writ of Possession was tested on a Writ *teſte* on Sunday, and for that Reason a Writ of Re-^a *Sunday.* titution was awarded. *Hill. 10. W.*

Where there is an Original Writ which varies in Substance from the Count, this is *Jeofails*; If Original but when there is no Original, it is helped by the Statute. *5 Co. 37.*



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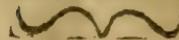
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ISSUES.

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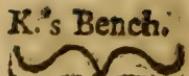
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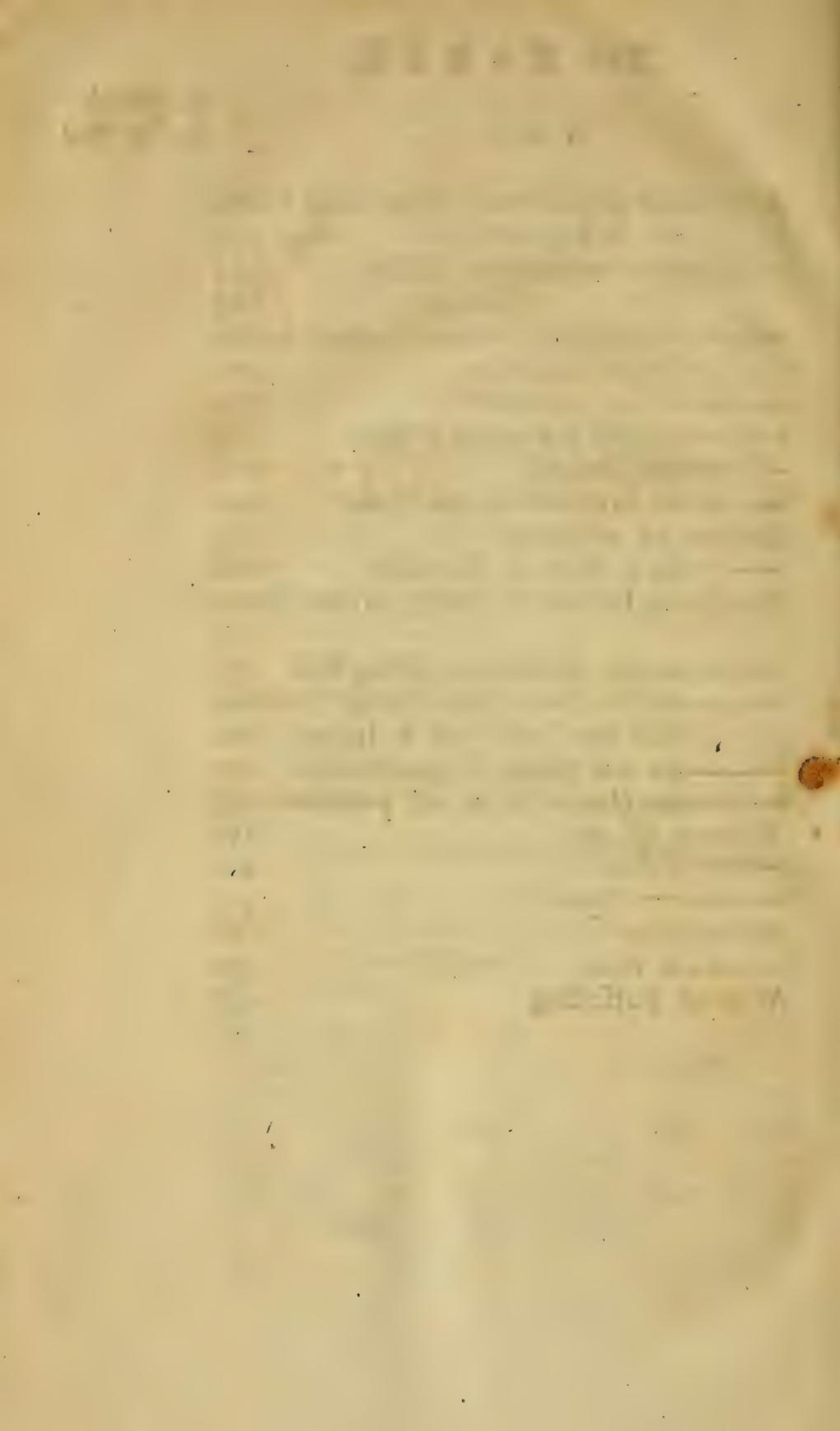
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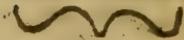
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